

FILED

January 30, 2023 02:32 PM

SCT-Civ-2022-0046
VERONICA HANDY, ESQUIRE
CLERK OF THE COURT

Case No. SCT-CIV-2022-0046

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

STEPHEN EVANS-FREKE

Appellant/Petitioner,

v.

VALERIE EVANS-FREKE,

Appellee/Respondent.

On Appeal From The Superior Court
For The District of St. Thomas & St. John
Case No. ST-2016-DI-00166

JOINT APPENDIX

Andrew L. Capdeville, Esq.

V.I. Bar No. 206

Law Offices of Andrew L. Capdeville P.C.

8000 Nisky Shopping Center, Suite 201

St. Thomas, VI 00802-5844

Telephone: (340) 774-7784

Facsimile: (340)774-2737

E-mail: capdeville@alcvilaw.com

Attorney for Appellant

Stephen Evans-Freke

TABLE OF CONTENTS

DOCKET SHEET	1
AMENDED NOTICE OF APPEAL	17
<i>PENDENTE LITE</i> ORDER.....	22
VERIFIED COMPLAINT FOR DIVORCE	33
DECREE OF DIVORCE	36
FINDINGS OF FACT AND CONCLUSIONS OF LAW	38
EMERGENCY MOTION FOR <i>PENDENTE LITE</i> SUPPORT, EXPERT FORENSIC ACCOUNTANT FEES AND COSTS, AND ATTORNEY’S FEES AND COSTS <i>PENDENTE LITE</i>	40
OPPOSITION TO EMERGENCY MOTION FOR PENDENTE LITE SUPPORT, EXPERT FORENSIC ACCOUNTANT FEES AND COSTS, AND ATTORNEY’S FEES AND COSTS PENDENTE LITE.....	67
EXHIBIT 1 – LETTER TO VALERIE EVANS-FREKE.....	96
EXHIBIT 2 – AFFIDAVIT OF STEPHEN EVANS-FREKE	98
EXHIBIT 1 – PERSONAL FINANCIAL STATEMENTS	104
EXHIBIT 2 – CASHFLOW STATEMENT	126
EXHIBIT 3 – “WHY ARE BIOTECH STOCKS UNDERPERFORMING? THE NEWS FROM COMPANIES HAS BEEN MOSTLY BAD”	128
EXHIBIT 4 – MORGAN STANLEY, “ADC RECENT TRADING HAS CORRELATED CLOSING WITH THE BROADER BIOTECH INDEX”	131
EXHIBIT 5 – PHOTOGRAPHS OF TUXEDO PARK MANSION.....	133
MOTION TO REFER GREGORY COWHEY AND RSM US LLP TO THE APPROPRIATE AUTHORITIES FOR UNAUTHORIZED PRACTICE OF LAW AND PUBLIC ACCOUNTING WITHOUT A LICENSE AND PROHIBIT FURTHER INVOLVEMENT WITH THIS CASE	136
EXHIBIT 1 – DIRECTORY OF PUBLIC ACCOUNTING FIRMS	146

EXHIBIT 2 – LETTER DATED MAY 16, 2022	152
ORDER (PROPOSED).....	165
RESPONSE IN OPPOSITION TO MOTION TO REFER GREGORY COWHEY AND FIRM RSM US LLP TO THE APPROPRIATE AUTHORITIES FOR UNAUTHORIZED PRACTICE OF LAW AND PUBLIC ACCOUNTING WITHOUT A LICENSE AND PROHIBIT FURTHER INVOLVEMENT WITH THIS CASE	167
REPLY TO OPPOSITION TO MOTION TO PRESENT WITNESS TESTIMONY	187
CERTIFICATION OF GREGORY COWHEY.....	192
VERIFICATION OF GREGORY COWHEY.....	202
DECLARATION OF GREGORY COWHEY IN SUPPORT OF RESPONSE IN OPPOSITION TO MOTION TO REFER GREGORY COWHEY AND FIRM RSM US LLP TO THE APPROPRIATE AUTHORITIES FOR UNAUTHORIZED PRACTICE OF LW AND PUBLIC ACCOUNTING WITHOUT A LICENSE AND PROHIBIT FURTHER INVOLVEMENT WITH THIS CASE	208
TRANSCRIPT (EXCERPTS) – MOTIONS HEARING, JUNE 2, 2022.....	211
TRANSCRIPT (EXCERPTS) – MOTIONS HEARING, JUNE 3, 2022	272
CERTIFICATE OF SERVICE.....	292

Superior Court of the Virgin Islands

Docket Sheet

Case #	ST-2016-DI-00166	Judge	Hon. Debra S. Watlington
Case Title	EVANS-FREKE v. EVANS-FREKE	Case Type	Family - Domestic Relations - Divorce - Uncontested

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
216	01-23-2023 03:02 PM	Motion - Motion For Hearing Received	Official		Motion For Hearing Received	
215	01-17-2023 01:57 PM	Motion - Motion Received	Official		Motion Received	Julie M. German Evert On Behalf of VALERIE EVANS-FREKE
214	01-17-2023 01:56 PM	Motion - Motion Received	Official		Motion Received	Julie M. German Evert On Behalf of VALERIE EVANS-FREKE
213	01-17-2023 01:56 PM	Notice - Exhibit	Official		Exhibit	Julie M. German Evert On Behalf of VALERIE EVANS-FREKE
212	01-17-2023 01:51 PM	Notice - Exhibit	Official		Exhibit	Julie M. German Evert On Behalf of VALERIE EVANS-FREKE
211	01-17-2023 01:50 PM	Motion - Motion Received	Official		Motion Received	Julie M. German Evert On Behalf of VALERIE EVANS-FREKE
210	12-21-2022 10:28 AM	Motion - Motion For Hearing Received	Official		Motion For Hearing Received	
209	12-19-2022 11:21 AM	Notice - Exhibit	Official		Exhibit	
208	12-19-2022 11:19 AM	Motion - Motion Received	Official		Motion Received	
207	12-08-2022 09:21 AM	Motion - Motion Received	Official		Motion Received	
206	12-08-2022 09:21 AM	Notice - Exhibit	Official		Exhibit	Julie M. German Evert On Behalf of VALERIE EVANS-FREKE
205	12-07-2022 04:16 PM	Appeal - Certified Docket Forwarded To Supreme Court	Official		Certified E-Record, Docket Sheet, and Pendente Lite Order Forwarded To Supreme Court.	Paula Claxton, Court Clerk III
204	11-30-2022 11:35 AM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Supreme Court Scheduling Order Received.	
203	11-28-2022 09:53 AM	Notice - Notice of Filing	Official		Notice of Filing	
202	11-23-2022 02:30 PM	Motion - Motion Received	Official		Motion Received	
201	11-22-2022 11:01 AM	Notice - Exhibit	Official		Exhibit	
200	11-22-2022 11:01 AM	Notice - Exhibit	Official		Exhibit	
199	11-22-2022 11:01 AM	Notice - Proposed Order	Official		Proposed Order	
198	11-22-2022 11:00 AM	Motion - Motion Received	Official		Motion Received	
197	11-17-2022 03:10 PM	Motion - Motion Received	Official		Motion Received	

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Superior Court of the Virgin Islands

Docket Sheet

Case #	ST-2016-DI-00166	Judge	Hon. Debra S. Watlington
Case Title	EVANS-FREKE v. EVANS-FREKE	Case Type	Family - Domestic Relations - Divorce - Uncontested

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
196	11-17-2022 03:09 PM	Notice - Proposed Order	Official		Proposed Order	
195	11-10-2022 05:01 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	
194	11-10-2022 05:00 PM	Order - Order Signed	Official		Order Signed	
193	11-10-2022 04:56 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	
192	11-10-2022 04:48 PM	Order - Order Signed	Official		Order Signed Denying Motion	
191	10-25-2022 09:13 AM	Notice - Exhibit	Official		Exhibit	
190	10-25-2022 09:13 AM	Notice - Notice of Filing	Official		Notice of Filing	
189	10-25-2022 09:13 AM	Notice - Exhibit	Official		Exhibit	
188	10-24-2022 09:12 AM	Motion - Opposition Motion	Official		Motion In Opposition Received	
187	10-19-2022 10:22 AM	Notice - Proposed Order	Official		Proposed Order	
186	10-19-2022 10:22 AM	Response - Reply	Official		Response to Motion	
185	10-18-2022 10:38 AM	Response - Opposition Received	Official		Opposition Received	Andrew L. Capdeville On Behalf of STEPHEN EVANS-FREKE
182	10-13-2022 01:19 PM	Notice - Exhibit	Official		Exhibit	
181	10-13-2022 01:19 PM	Notice - Exhibit	Official		Exhibit	
180	10-13-2022 01:19 PM	Motion - Motion Received	Official		Motion Received	
184	10-13-2022 01:25 PM	Notice - Notice to the Court	Official		Notice to the Court	
183	10-13-2022 01:24 PM	Notice - Exhibit	Official		Exhibit	
179	10-11-2022 10:19 AM	Response - Response to Opposition	Official		Response to Opposition	
178	10-07-2022 12:32 PM	Notice - Notice to the Court	Official		Notice to the Court	
177	10-07-2022 09:57 AM	Affidavit - Affidavit	Official		Affidavit	
176	10-07-2022 09:57 AM	Motion - Motion For Emergency Hearing Received	Official		Motion For Emergency Hearing Received	
175	10-07-2022 09:57 AM	Notice - Exhibit	Official		Exhibit	
174	10-06-2022 04:38 PM	Response - Response to Opposition	Official		Response to Opposition	
173	10-03-2022 02:27 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	
172	10-03-2022 02:26 PM	Order - Order Signed	Official		Order Signed Continuing Matter w/o date	
171	09-22-2022 10:50 AM	Affidavit - Affidavit	Official		Affidavit	
170	09-22-2022 10:50 AM	Response - Reply	Official		Response to Motion	Julie M. German Evert On Behalf of VALERIE EVANS-

Superior Court of the Virgin Islands

Docket Sheet

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Case Title	EVANS-FREKE v. EVANS-FREKE	Case Type	Family - Domestic Relations - Divorce - Uncontested

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
						FREKE
169	09-21-2022 12:59 PM	Notice - Exhibit	Official		Exhibit	
168	09-21-2022 12:59 PM	Notice - Proposed Order	Official		Proposed Order	
167	09-21-2022 12:59 PM	Response - Opposition Received	Official		Opposition Received	Julie M. German Evert On Behalf of VALERIE EVANS-FREKE
166	09-19-2022 09:30 AM	Response - Opposition Received	Official		Opposition Received	
165	09-08-2022 12:28 PM	Appeal - Certified Docket Forwarded To Supreme Court	Official		Certified Docket Sheet and Pendente Lite Order Forwarded To Supreme Court.	Paula Claxton, Court Clerk III
164	09-08-2022 08:53 AM	Notice - Exhibit	Official		Exhibit	
163	09-08-2022 08:53 AM	Notice - Exhibit	Official		Exhibit	
162	09-08-2022 08:53 AM	Notice - Exhibit	Official		Exhibit	
161	09-08-2022 08:52 AM	Notice - Exhibit	Official		Exhibit	
160	09-08-2022 08:52 AM	Notice - Exhibit	Official		Exhibit	
159	09-08-2022 08:52 AM	Motion - Motion Received	Official		Motion Received	
158	09-01-2022 04:00 PM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Supreme Court Docketing Order received. Appeal Docketed as SCT-CIV-2022-0046.	Supreme Court of the Virgin Islands
157	09-01-2022 03:57 PM	Initiating Document - Notice of Appeal	Official		Notice of Appeal received	Supreme Court of the Virgin Islands
156	09-01-2022 10:33 AM	Motion - Motion Received	Official		Motion Received	
155	08-23-2022 06:39 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	
154	08-23-2022 06:33 PM	Order - Order	Official		Pendente Lite Order	
153	08-10-2022 09:07 AM	Motion - Motion Received	Official		Motion Received	
152	08-01-2022 11:37 AM	Action - Proposed Document For Judge's Signature	Official		Proposed Document For Judge's Signature	
151	08-01-2022 11:36 AM	Notice - Notice of Filing	Official		Notice of Filing-Exhibit A	
150	08-01-2022 11:35 AM	Motion - Motion Received	Official		Motion to Withdraw Received	Justin K. Holcombe On Behalf of STEPHEN EVANS-FREKE
149	07-26-2022 01:03 PM	Notice - Notice of Filing	Official		Notice of Filing-Exhibits B, D & E	Julie M. German Evert On Behalf of VALERIE EVANS-FREKE
148	07-26-2022 12:48 PM	Notice - Notice of Filing	Official		Notice of Filing-Exhibit 1A-2A	Julie M. German Evert On Behalf of

**Superior Court of the Virgin Islands
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#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
						VALERIE EVANS-FREKE
147	07-26-2022 12:42 PM	Notice - Notice of Filing	Official		Notice of Filing	Andrew L. Capdeville On Behalf of STEPHEN EVANS-FREKE
146	07-26-2022 12:41 PM	Notice - Proposed Order	Official		Proposed Order	Andrew L. Capdeville On Behalf of STEPHEN EVANS-FREKE
145	07-26-2022 12:35 PM	Notice - Notice of Filing	Official		Notice of Filing-Exhibit A	Julie M. German Evert On Behalf of VALERIE EVANS-FREKE
144	07-26-2022 12:29 PM	Response - Response	Official		Response in Opposition to Motion	Julie M. German Evert On Behalf of VALERIE EVANS-FREKE
143	07-22-2022 04:39 PM	Response - Reply	Official		Response to Petitioner's Motion to Strike Respondent's Motion for an Order to Show Cause	Julie M. German Evert On Behalf of VALERIE EVANS-FREKE
142	07-22-2022 01:19 PM	Motion - Motion Received	Official		Petitioner's Motion to Strike Respondent's Motion for an Order to Show Cause Received	Andrew L. Capdeville On Behalf of STEPHEN EVANS-FREKE
141	07-11-2022 03:11 PM	Motion - Motion Received	Official		Motion Received- Motion for an Order to Show Cause as to Why Petitioner Should not be Held in Contempt for Listing the Parties' Vessel Celtic Fire for Sale on Craig's List	Julie M. German Evert On Behalf of VALERIE EVANS-FREKE
140	07-08-2022 02:34 PM	Response - Opposition Received	Official		Opposition to Motion to Strike Respondent's Notice to Court that a Petitioner is Hosting a Fundraising Event for Governor Bryan	Julie M. German Evert On Behalf of VALERIE EVANS-FREKE
139	07-08-2022 11:10 AM	Action - Proposed Document For Judge's Signature	Official		Proposed Document For Judge's Signature	
138	07-08-2022 11:09 AM	Motion - Motion Received	Official		Motion Received	Andrew L. Capdeville On Behalf of STEPHEN EVANS-FREKE
137	07-06-2022 02:06 PM	Notice - Notice of Filing	Official		Notice of Filing-Exhibit A	Julie M. German Evert On Behalf of VALERIE EVANS-

**Superior Court of the Virgin Islands
Docket Sheet**

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#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
						FREKE
136	07-06-2022 02:05 PM	Notice - Notice of Filing	Official		Notice of Filing	Julie M. German Evert On Behalf of VALERIE EVANS- FREKE
135	06-24-2022 02:08 PM	Notice - Stipulation Received	Official		Stipulation Received	
134	06-16-2022 04:48 PM	Response - Response	Official		Opposition to Informational Motion with updated into pertaining to the respondent's vehicle	
133	06-14-2022 02:15 PM	Motion - Motion Received	Official		Informational Motion with Updated Information Pertaining to the Respondent's Vehicle Received	
132	06-13-2022 10:38 AM	Notice - Notice to the Court	Official		Notice to the Court -- NOTICE REGARDING RESPONDENT'S EX PARTE SUBMISSION ADDRESSING LEGAL FEES	Justin K. Holcombe On Behalf of STEPHEN EVANS- FREKE
131	06-10-2022 02:26 PM	Notice - Notice to the Court	Official		Notice to the Court	
130	06-10-2022 11:42 AM	Motion - Motion Received	Official		Motion Received	
129	06-09-2022 09:21 AM	Hearing - Record Of Proceeding	Official		Record Of Proceeding	
128	06-03-2022 01:32 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	
127	06-03-2022 01:31 PM	Order - Order Signed	Official		Order Signed Granting the Respondent's Motion	
126	06-02-2022 01:41 PM	Notice - Respondent's Exhibit List	Official		Respondent's Exhibit List	
125	06-02-2022 01:36 PM	Notice - Plaintiff/Petitioner's Exhibit List	Official		Plaintiff/Petitioner's Exhibit List	
124	06-02-2022 08:53 AM	Hearing - Record Of Proceeding	Official		Record Of Proceeding	
123	06-02-2022 08:14 AM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	
122	06-02-2022 08:13 AM	Order - Order Signed	Official		Order Signed Granting the Parties' joint Motion	
121	06-01-2022 04:26 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	
120	06-01-2022 03:55 PM	Order - Order Granting	Official		Order Granting Motion	
119	06-01-2022 02:54 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	

Superior Court of the Virgin Islands

Docket Sheet

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Case Title	EVANS-FREKE v. EVANS-FREKE	Case Type	Family - Domestic Relations - Divorce - Uncontested

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
118	06-01-2022 02:45 PM	Order - Order Signed	Official		Order Signed Setting Deadlines	
117	06-01-2022 12:12 PM	Notice - Proposed Order	Official		Proposed Order	
116	06-01-2022 12:12 PM	Motion - Motion Received	Official		Motion Received	
115	05-27-2022 08:37 AM	Response - Opposition Received	Official		Opposition Received	
114	05-26-2022 04:37 PM	Motion - Emergency Motion	Official		Emergency Motion	
113	05-26-2022 10:23 AM	Response - Opposition Received	Official		Opposition Received	
112	05-24-2022 03:33 PM	Notice - Notice of Filing	Official		Notice of Filing	
111	05-23-2022 04:23 PM	Motion - Motion Received	Official		Motion Received	
110	05-20-2022 03:00 PM	Response - Reply	Official		Response to Motion	
109	05-20-2022 09:00 AM	Motion - Motion To Seal Record Received	Official		Motion To Seal Record Received	
108	05-18-2022 02:44 PM	Notice - Notice to the Court	Official		Notice to the Court	
107	05-18-2022 10:46 AM	Motion - Emergency Motion	Official		Emergency Motion	
106	05-17-2022 02:17 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	
105	05-17-2022 02:16 PM	Order - Order Signed	Official		Temporary Standing/Status Quo Order Signed	
104	05-17-2022 02:12 PM	Motion - Emergency Motion	Official		Emergency Motion	
103	05-17-2022 02:11 PM	Motion - Emergency Motion	Official		Emergency Motion	
102	05-13-2022 12:58 PM	Motion - Motion Received	Official		Motion Received	
101	05-12-2022 02:33 PM	Motion - Emergency Motion	Official		Emergency Motion	
100	05-12-2022 01:42 PM	Motion - Amended Motion	Official		Amended Motion	
99	05-11-2022 11:08 AM	Motion - Motion for Extension of Time	Official		Motion for Extension of Time	
98	05-11-2022 10:27 AM	Motion - Motion Received	Official		Motion Received	
97	04-27-2022 09:53 AM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	
96	04-27-2022 09:52 AM	Order - Order Signed	Official		Order Signed Scheduling a Hearing	
95	04-26-2022 09:50 AM	Response - Opposition Received	Official		Opposition Received	
94	04-22-2022 12:11 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	
93	04-22-2022 12:10 PM	Order - Order Signed	Official		Order Signed Granting Motion	

Superior Court of the Virgin Islands

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#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
92	04-22-2022 10:01 AM	Hearing - Record Of Proceeding	Official		Record Of Proceeding	
91	04-16-2022 05:52 PM	Motion - Opposition Motion	Official		OPPOSITION TO MOTION TO EXCEED PAGE LIMIT AND FOR EXTENSION OF TIME	Laura Castillo Nagi On Behalf of VALERIE EVANS-FREKE Julie German Evert, Esq.
90	04-13-2022 05:08 PM	Motion - Motion for Extension of Time	Official		Motion for Extension of Time	
89	04-12-2022 12:22 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	
88	04-12-2022 12:14 PM	Order - Order	Official		Order	
87	03-23-2022 04:04 PM	Motion - Motion Received	Official		Motion Received	
86	03-14-2022 09:43 AM	Motion - Emergency Motion	Official		Emergency Motion	
85	03-14-2022 09:42 AM	Notice - Exhibit	Official		Exhibit	
84	03-11-2022 02:56 PM	Notice - Notice of Appearance	Official		Notice of Appearance	
83	03-10-2022 03:55 PM	Response - Opposition Received	Official		Opposition Received	
82	03-03-2022 10:49 AM	Response - Response to Opposition	Official		Response to Opposition	
81	03-02-2022 09:03 AM	Response - Opposition Received	Official		Opposition Received	
80	03-01-2022 03:52 PM	Motion - Emergency Motion	Official		Emergency Motion	
79	02-16-2022 03:04 PM	Motion - Emergency Motion	Official		Emergency Motion	
78	02-14-2022 02:01 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	
77	02-14-2022 01:59 PM	Order - Divorce Decree	Official		Divorce Decree Signed by Debra S. Watlington, Judge	
76	02-14-2022 01:58 PM	Order - Findings of Fact and Conclusion of Law	Official		Findings of Fact and Conclusion of Law	
75	02-09-2022 12:23 PM	Motion - Motion Received	Official		Motion Received	
74	02-06-2022 06:09 PM	Notice - Notice to the Court	Official		Notice to the Court-- Stipulation for Substitution of Counsel	
73	01-20-2022 11:22 AM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Mandate of the Supreme Court received.	
72	12-30-2021 10:32 AM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Opinion & Judgment of Supreme Court received Ordered that the Superior Court's April 16, 2019	

**Superior Court of the Virgin Islands
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Case Title	EVANS-FREKE v. EVANS-FREKE	Case Type	Family - Domestic Relations - Divorce - Uncontested

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					opinion and order granting the motion to dismiss and it July 24, 2018 order denying the motion for partial summary judgment are REVERSED, and that the case is remanded for the Superior Court immediately enter a decree of divorce and exercise jurisdiction over all outstanding issues that remain between the parties.	
71	05-29-2020 02:06 PM	Notice - Notice of Entry of Official Judgment/Order			Notice of Entry of Order Henry L. Feuerzeig, Esq. Laura C. Nagi, Esq. Peter Lynch, Esq.	
70	05-28-2020 02:10 PM	Order - Order Signed	Official		Order Signed Denying Respondent's Motion	
69	08-19-2019 12:01 AM	Motion - Reply Received	Official		REPLY TO PETITIONER'S OPPOSITION TO RESPONDENT'S MOTION TO, RECONSIDER AND RESCIND OR VACATE THAT PORTION OF THE COURT'S, AUGUST 6, 2019 ORDER MODIFYING ITS JULY 23, 2019 ORDER TO STAY, WHICH ENJOINS THE RESPONDENT FROM PROCEEDING IN HER NEW YORK DIVORCE, ACTION	
68	08-09-2019 12:01 AM	Response - Opposition Received	Official		PETITIONER'S OPPOSITION TO RESPONDENT'S MOTION TO RECONSIDER AND, RESCIND OR VACATE THAT PORTION OF THE COURT'S AUGUST 6, 2019 ORDER, MODIFYING ITS JULY 23, 2019 ORDER TO STAY WHICH ENJOINS THE, RESPONDENT FROM PROCEEDING IN HER NEW YORK DIVORCE ACTION	
67	08-08-2019 12:01 AM	Motion - Motion Received	Official		RESPONDENT'S MOTION TO RECONSIDER AND RESCIND OR VACATE THAT PORTION, OF THE COURT'S AUGUST 6, 2019 ORDER	

Superior Court of the Virgin Islands

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#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					MODIFYING ITS JULY 23, 2019, ORDER TO STAY WHICH ENJOINS THE RESPONDENT FROM PROCEEDING IN HER, NEW YORK DIVORCE ACTION	
66	08-06-2019 12:01 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER, 08/06/2019, HENRY L. FEUERZEIG, ESQ., LAURA C. NAGI, ESQ., PETER LYNCH, ESQ., SUPREME COURT OF THE VIRGIN ISLANDS, ORANGE SUPREME AND COUNTY COURT, 285 MAIN STREET, GOSHEN, NY 10924	
65	08-06-2019 12:01 AM	Order - Order Signed	Official		ORDER GRANTING PETITIONER'S MOTION TO MODIFY JULY 23, 2019 ORDER	
64	08-06-2019 12:01 AM	Response - Opposition Received	Official		OPPOSITION TO MOTION TO SET ASIDE ORDER DATED JULY 30, 2019	
63	08-02-2019 12:01 AM	Motion - Motion Received	Official		MOTION TO SET ASIDE THE COURT'S JULY 30, 2019 ORDER MODIFYING ITS, JULY 23, 2019 ORDER GRANTING A STAY	
62	08-02-2019 12:01 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER, 08/02/2019, HENRY L. FEUERZEIG, ESQ., LAURA C. NAGI, ESQ.	
61	08-02-2019 12:01 AM	Notice - Notice of Appearance	Official		NOTICE OF SPECIAL APPEARANCE OF PETER LYNCH, ESQ. FOR RESPONDENT	
60	08-02-2019 12:01 AM	Order - Order Signed	Official		ORDER SIGNED RESCINDING ORDER ENTERED JULY 29, 2019.	
59	07-30-2019 12:00 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER, 07/29/2019, HENRY L. FEUERZEIG, ESQ., LAURA C. NAGI, ESQ.	
58	07-29-2019 12:00 AM	Order - Order Signed	Official		ORDER SIGNED BY JUDGE DEBRA S. WATLINGTON	
57	07-26-2019 12:00 AM	Appeal - Certified Docket Forwarded To Supreme Court	Official		UPDATED CERTIFIED DOCKET FORWARDED TO SUPREME COURT	
56	07-26-2019 12:00 AM	Notice - Notice Of Filing	Official		PURSUANT TO THE	

Superior Court of the Virgin Islands

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Case #	ST-2016-DI-00166	Judge	Hon. Debra S. Watlington
Case Title	EVANS-FREKE v. EVANS-FREKE	Case Type	Family - Domestic Relations - Divorce - Uncontested

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		Received			SUPREME COURT'S SCHEDULING ORDER ENTERED ON JUNE 4,, 2019, WHICH REQUIRES THIS OFFICE TO FILE THE E-RECORD ON OR BEFORE, JUNE 14, 2019, PLEASE FIND ENCLOSED AN INDEX OF DOCUMENTS REQUIRED, AND THE DOCUMENTS REFERENCED THEREIN.	
55	07-25-2019 12:00 AM	Motion - Motion Received	Official		MOTION TO MODIFY ORDER OF JULY 23, 2019	
54	07-23-2019 12:00 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER, 07/23/2019, HENRY L. FEUERZEIG, ESQ., LAURA C. NAGI, ESQ., SUPREME COURT OF THE VIRGIN ISLANDS	
53	07-23-2019 12:00 AM	Order - Order Signed	Official		Order Signed	
52	07-17-2019 12:00 AM	Case Initiation - Petitioner's Response	Official		RESPONSE TO RESPONDENT'S OPPOSITION TO PETITIONER'S MOTION TO DEEM, CONCEDED THE MOTION TO STAY THE APRIL 15, 2019, ORDER PENDING APPEAL	
51	07-16-2019 12:00 AM	Response - Opposition Received	Official		OPPOSITION TO PETITIONER'S MOTION TO DEEM CONCEDED THE MOTION TO, STAY THE APRIL 15, 2019	
50	07-08-2019 12:00 AM	Motion - Motion Received	Official		MOTION TO DEEM CONCEDED PETITIONER'S MOTION TO STAY THIS COURT'S, APRIL 16, 2019, ORDER OF DISMISSAL PENDING THE OUTCOME OF THE APPEAL	
49	07-08-2019 12:00 AM	Response - Opposition Received	Official		OPPOSITION TO MOTION TO STAY THE APRIL 15, 2019 ORDER PENDING APPEAL	
48	06-13-2019 12:00 AM	Motion - Motion Received	Official		MOTION RECEIVED. MOTION TO STAY THE APRIL 16, 2019 ORDER PENDING, APPEAL	
47	06-04-2019 12:00 AM	Notice - Notice Of Filing	Official		SUPREME COURT'S	

Superior Court of the Virgin Islands

Docket Sheet

Case #	ST-2016-DI-00166	Judge	Hon. Debra S. Watlington
Case Title	EVANS-FREKE v. EVANS-FREKE	Case Type	Family - Domestic Relations - Divorce - Uncontested

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		Received			SCHEDULING ORDER ENTERED ON JUNE 4, 2019,, RE: ORDERED THAT PURSUANT TO VIRGIN ISLANDS RULES OF APPELLATE, PROCEDURE 11(b) AND 40.3(j), THE CLERK OF THE SUPERIOR COURT SHALL, FILE THE E-RECORD ON OR BEFORE JUNE 14, 2019;	
46	05-20-2019 12:00 AM	Appeal - Certified Docket Forwarded To Supreme Court	Official		Certified Docket Forwarded To Supreme Court	
45	05-20-2019 12:00 AM	Notice - Notice Of Filing Received	Official		PURSUANT TO THE SUPREME COURT'S DOCKETING ORDER ENTERED ON MAY 14,, 2019, PLEASE FIND ENCLOSED AN INDEX OF DOCUMENTS REQUIRED AND THE, DOCUMENTS REFERENCED THEREIN.	
44	05-14-2019 12:00 AM	Notice - Notice Of Appeal Received	Official		NOTICE OF APPEAL FILED IN THE SUPREME COURT	
43	05-14-2019 12:00 AM	Notice - Notice Of Filing Received	Official		SUPREME COURT'S DOCKETING ORDER ENTERED, RE: ORDERED THAT APPELLANT'S NOTICE OF APPEAL BE DOCKETED, AS S. CT. CIV. NO. 2019-0046;	
42	04-16-2019 12:00 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF MEMORANDUM OPINION AND ORDER, 04/15/2019, HENRY L. FEURZEIG, ESQ., LAURA C. NAGI, ESQ., SUPERIOR COURT JUDGES - STT AND STX, SUPERIOR COURT MAGISTRATES - STT AND STX, CLERK OF THE COURT, SUPERIOR COURT IT DIVISION	
41	04-15-2019 12:00 AM	Order - Memorandum Opinion And Order	Official		MEMORANDUM OPINION AND ORDER SIGNED BY JUDGE DEBRA S. WATLINGTON	
40	12-27-2018 12:00 AM	Motion - Reply Received	Official		REPLY TO RESPONDENT'S	

Superior Court of the Virgin Islands

Docket Sheet

Case #	ST-2016-DI-00166	Judge	Hon. Debra S. Watlington
Case Title	EVANS-FREKE v. EVANS-FREKE	Case Type	Family - Domestic Relations - Divorce - Uncontested

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					OPPOSITION TO PETITIONER'S RENEWED MOTION, FOR PARTIAL SUMMARY JUDGMENT GRANTING PLAINTIFF A DECREE OF DIVORCE	
39	12-18-2018 12:00 AM	Motion - Motion For Extension Of Time Received	Official		MOTION FOR EXTENSION OF TIME FOR PETITIONER TO REPLY TO RESPONDENT'S, RENEWED OPPOSITION TO THE PETITIONER'S RENEWED REQUEST TO BIFURCATE, THIS ACTION VIA MOTION FOR PARTIAL SUMMARY JUDGMENT ON THE ISSUE ON, THE ISSUE FOR DIVORCE ONLY	
38	12-10-2018 12:00 AM	Response - Opposition Received	Official		RESPONDENT'S RENEWED OPPOSITION TO PETITIONER'S RENEWED REQUEST TO, BIFURCATE THIS ACTION VIA MOTION FOR PARTIAL SUMMARY JUDGMENT ON THE, ISSUE OF DIVORCE ONLY	
37	11-16-2018 12:00 AM	Motion - Motion For Summary Judgment Received	Official		RENEWED MOTION FOR PARTIAL SUMMARY JUDGMENT GRANTING PLAINTIFF A, DECREE OF DIVORCE	
36	09-26-2018 12:00 AM	Motion - Reply Received	Official		PETITIONER'S REPLY TO RESPONDENT'S OPPOSITION TO MOTION FOR AN ORDER, HOLDING THE RESPONDENT IN CONTEMPT OF COURT FOR FAILING TO COMPLY, WITH THIS COURT'S ORDER OF JULY 24, 2018	
35	09-20-2018 12:00 AM	Case Initiation - Opposition To Motion Received	Official		OPPOSITION TOPETITIONER'S MOTION FOR AN ORDER HOLDING RESPONDENT, IN COONTEMPT OF COURT	
34	08-30-2018 12:00 AM	Motion - Motion Received	Official		PETITIONER'S MOTION FOR AN ORDER HOLDING THE RESPONDENT IN	

Superior Court of the Virgin Islands

Docket Sheet

Case #	ST-2016-DI-00166	Judge	Hon. Debra S. Watlington
Case Title	EVANS-FREKE v. EVANS-FREKE	Case Type	Family - Domestic Relations - Divorce - Uncontested

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					CONTEMPT, OF COURT FOR FAILING TO COMPLY WITH THIS COURT'S ORDER OF JULY 24,, 2018	
33	08-06-2018 12:00 AM	Motion - Reply Received	Official		REPLY TO RESPONDENT'S MOTION FOR CLARIFICATION AND RULING	
32	08-03-2018 12:00 AM	Motion - Motion Received	Official		MOTION FOR CLARIFICATION AND FOR RULING	
31	07-25-2018 12:00 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER, 07/25/2018, HENRY L. FEUERZEIG, ESQ., LAURA C. NAGI, ESQ.	
30	07-24-2018 12:00 AM	Order - Order Signed	Official		MEDIATION ORDER SIGNED	
29	05-17-2018 12:00 AM	Motion - Reply Received	Official		REPLY TO OPPOSITION TO MOTION FOR PARTIAL SUMMARY JUDGMENT	
28	05-08-2018 12:00 AM	Notice - Notice Of Filing Received	Official		NOTICE TO THE COURT	
27	05-07-2018 12:00 AM	Motion - Motion Received	Official		MOTION FOR EXTENSION OF TIME FOR PETITIONER TO REPLY TO RESPONDENT'S, OPPOSITION TO PARTIAL SUMMARY JUDGMENT MOTION FOR DIVORCE	
26	04-19-2018 12:00 AM	Case Initiation - Opposition To Motion Received	Official		RESPONDENT'S OPPOSITION TO PETITIONER'S REQUEST TO BIFURCATE THIS, ACTION VIA MOTION FOR PARTIAL SUMMARY JUDGMENT ON THE ISSUE OF, DIVORCE ONLY	
25	03-23-2018 12:00 AM	Motion - Motion For Summary Judgment Received	Official		MOTION FOR SUMMARY JUDGMENT RECEIVED W/ ATTACHMENTS OF: MEMORANDUM, IN SUPPORT OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT,, DECREE OF DIVORCE, AND FINDINGS	
24	07-12-2017 12:00 AM	Notice - Notice To The Court Received	Official		NOTICE OF COMPLIANCE WITH THE SUPREME COURT, STATE OF NEW YORK, IAS,	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2016-DI-00166	Judge	Hon. Debra S. Watlington
Case Title	EVANS-FREKE v. EVANS-FREKE	Case Type	Family - Domestic Relations - Divorce - Uncontested

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					PART-ORANGE COUNTY DECISION AND ORDER OF JUNE 20, 2017 RECEIVED, FROM HENRY L. FEUERZEIG, ESQ. WITH ATTACHMENTS NO. 1 - 6	
23	06-20-2017 12:00 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING OF DECISION AND ORDER SUPREME COURT STATE OF NEW, YORK COURT ORANGE COUNTY RECEIVED FROM LAURA C. NAGI, ESQ. WITH, ATTACHMENT OF THE ORDER FROM SUPREME COURT.	
22	06-20-2017 12:00 AM	Motion - Reply Received	Official		REPLY TO OPPOSITION TO MOTION FOR RULING AND TO STAY ALL LEGAL, PROCEEDINGS RECEIVED FROM LAURA C. NAGI, ESQ. WITH ATTACHMENT OF A, PROPOSED ORDER.	
21	06-09-2017 12:00 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DECISION AND ORDER DISMISSING DEFENDANT VALERIE, EVANS-FREKES NEW YORK ACTION FOR DIVORCE RECEIVED FROM HENRY L., FEUERZEIG, ESQ. WITH ATTACHMENT	
20	05-30-2017 12:00 AM	Case Initiation - Opposition To Motion Received	Official		OPPOSITION TO MOTION FOR RULING AND TO STAY ALL LEGAL PROCEEDINGS, RECEIVED FROM HENRY L. FEUERZEG, ESQ. WITH WTTACMETNS	
19	05-22-2017 12:00 AM	Motion - Reply Received	Official		REPLY IN FURTHER SUPPORT OF DEFENDANTS MOTION TO DISMISS RECEIVED, FROM LAURA NAGI, ESQ. WITH ATTACHMENTS	
18	05-12-2017 12:00 AM	Motion - Motion Received	Official		MOTION FOR RULING ON THE DEFENDANTS MOTION TO DISMISS AND TO STAY, ALL LEGAL PROCEEDINGS RECEIVED FROM LAURA NAGI, ESQ. WITH, ATTACHMENT OF A	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2016-DI-00166	Judge	Hon. Debra S. Watlington
Case Title	EVANS-FREKE v. EVANS-FREKE	Case Type	Family - Domestic Relations - Divorce - Uncontested

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					PROPOSED ORDER	
17	05-10-2017 12:00 AM	Notice - Notice To The Court Received	Official		NOTICE TO THE COURT OF EXTENSION OF TIME RECEIVED FROM LAURA C., NAGI, ESQ.	
16	05-08-2017 12:00 AM	Case Initiation - Opposition To Motion Received	Official		OPPOSITION TO MOTION TO DISMISS FOR LACK OF JURISDICTION AND AS AN, INCONVENIENT FORUM RECEIVED FROM HENRY L. FEUERZEIG, ESQ. WITH, ATTACHMENTS OF EXHIBITS 1-3.	
15	05-05-2017 12:00 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER, 05/04/2017, HENRY L. FEUERZEIG, ESQ., LAURA C. NAGI, ESQ.	
14	05-04-2017 12:00 AM	Order - Stipulation Approved By Court	Official		ORDER GRANTING JOINT STIPULATION FOR EXTENSION OF TIME	
13	05-02-2017 12:00 AM	Notice - Stipulation Received	Official		JOINT STIPULATION FOR EXTENSION OF TIME FOR RESPONDENT TO RESPOND TO, PETITIONER'S MOTION FOR PARTIAL SUMMARY JUDGMENT RECEIVED FROM, HENRY L. FEUERZEIG, ESQ. AND LAURA C. NAGI, ESQ.	
12	04-18-2017 12:00 AM	Motion - Motion Received	Official		MOTION TO DISMISS FOR LACK OF JURISDICTION AS AN INCONVENIENT FORUM, RECEIVED FROM THE RESPONDENT	
11	03-30-2017 12:00 AM	Motion - Motion For Summary Judgment Received	Official		MOTION FOR PARTIAL SUMMARY JUDGMENT RECEIVED FROM HENRY FEUERZEIG,, ESQ. WITH ATTACHMENTS OF A MEMORANDUM IN SUPPORT OF MOTION FOR, PARTIAL SUMMARY JUDGMENT, STATMENT OF UNDISPUTED MATERIAL FACTS,, EXHIBITS 1-2, AND A PROPOSED JUDGMENT	
10	02-21-2017 12:00 AM	Answer - Answer	Official		ANSWER AND AFFIRMATIVE DEFENSES RECEIVED FROM LAURA NAGI, ESQ.	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2016-DI-00166	Judge	Hon. Debra S. Watlington
Case Title	EVANS-FREKE v. EVANS-FREKE	Case Type	Family - Domestic Relations - Divorce - Uncontested

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
9	02-10-2017 12:00 AM	Notice - Notice of Appearance	Official		LIMITED NOTICE OF APPEARANCE RECEIVED FROM LAURA C. NAGI, ESQ.	
8	02-10-2017 12:00 AM	Notice - Stipulation Received	Official		JOINT STIPULATION FOR EXTENSION OF TIME TO RESPOND RECEIVED FROM, HENRY L. FEUERZEIG, ESQ. AND LAURA C. NAGI, ESQ.	
7	11-17-2016 12:00 AM	Financial - Fee Received	Official		FEE RECEIVED, RECEIPT # - 00161149	
6	11-14-2016 12:00 AM	Initiating Document - Civil Complaint	Official		Converted Claims	
5	11-14-2016 12:00 AM	Action - Random Judge Assignment	Official		RANDOM JUDGE ASSIGNMENT Hon. Debra S. Watlington DW	
4	11-14-2016 12:00 AM	Service - Summons Issued	Official		SUMMONS ISSUED FOR VALERIE EVANS-FREKE	
3	11-14-2016 12:00 AM	Initiating Document - Petition Received	Official		VERIFIED PETITION RECEIVED WITH THIRD PARTY AFFIDAVIT FROM DANIELA, KAUFFMAN, AND CERTIFICATE OF DISSOLUTION	
2	11-14-2016 12:00 AM	Initiating Document - Litigant Personal Data Form	Official		Civil Litigant Personal Data Form	
1	11-14-2016 12:00 AM	Financial - Filing Fee Assess	Official		FILING FEE ASSESSED	

CERTIFIED TO BE A TRUE COPY
This 25th day of Jan 20 23
TAMARA CHARLES
CLERK OF THE COURT
By *D. James* Court Clerk

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

STEPHEN EVANS-FREKE,)	
)	
Appellant/ Petitioner,	)	SCT-CIV-2022-0046
	)	ST-2016-DI-00166
vs.)	
)	
VALERIE EVANS-FREKE,)	
)	
Appellee /Respondent.)	
_____)	

AMENDED NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Petitioner, STEPHEN EVANS-FREKE, by and through his undersigned counsel, hereby appeals to the Supreme Court of the Virgin Islands, pursuant to Title 4 V.I.C. §33(b)(1) and Rules 4(a) and 5(a)(2) of the Virgin Islands Rules of Appellate Procedure, from the August 23, 2022 interlocutory *Pendente Lite* Order (the “August 23, 2022 Order”) of this Court, granting injunctive relief to Respondent in the above-captioned proceeding. Stephen appeals from all issues inherent in the August 23, 2022 Order, including, without limitation, the following:

1. Whether the Superior Court issued a clearly erroneous finding of fact, an errant conclusion of law, and/or an improper application of law to fact in determining Respondent’s monthly expenses where Respondent could not verify or offer support for her estimations, resulting in an abuse of discretion in awarding *pendente lite* support pursuant Title 16 V.I.C. §

108.

2. Whether the Superior Court issued a clearly erroneous finding of fact, an errant conclusion of law, and/or an improper application of law to fact in determining that the fees of Respondent's counsel and putative experts, Gregory Cowhey and RSM US, LLP, were reasonable despite there being no evidence on record concerning the fees charged by other lawyers, law firms, or accountants in the territory.
3. Whether the Superior Court issued a clearly erroneous finding of fact, an errant conclusion of law, or an improper application of law when it issued a lump sum award calculated on the basis of fees to be charged by Gregory Cowhey, an unlicensed accountant who testified that he intended to perform professional services that require licensure in this jurisdiction.
4. Whether the Superior Court erred when it relied on an unlicensed accountant's professional opinion concerning the Petitioner's tax returns.
5. Whether the Superior Court issued a clearly erroneous finding of fact, an errant conclusion of law, or an improper application of law to fact in awarding interim attorney's fees and costs to Respondent's counsel in the

Stephen Evans-Freke vs. Valerie Evans-Freke
SCT-CIV-2022-0046
ST-2016-DI-00166
AMENDED NOTICE OF APPEAL
Page 3

amount of \$350,000.00, while a Motion to Exclude Respondent's putative experts remains pending before the Court, resulting in an abuse of discretion.

6. Whether the Superior Court erred in finding that the attorneys fees charged by Respondent's counsel and unlicensed accountant were reasonable despite their being no evidence on record concerning the fees charged by other lawyers, law firms, or accountants in the territory.

**LAW OFFICES OF
ANDREW L. CAPDEVILLE, P.C.**

DATED: September 1, 2022

By: /s/ Andrew L. Capdeville
ANDREW L. CAPDEVILLE, ESQ.
V.I. Bar No. 206
Attorneys for Petitioner
8000 Nisky Shopping Center, Ste. 201
P. O. Box 6576
St. Thomas, VI 00804-6576
Telephone: (340) 774-7784
Facsimile: (340) 774-2737
Email: capdeville@alcvilaw.com

Stephen Evans-Freke vs. Valerie Evans-Freke
SCT-CIV-2022-0046
ST-2016-DI-00166
AMENDED NOTICE OF APPEAL
Page 4

CERTIFICATE OF SERVICE

It is hereby certified that on the 1st day of September 2022, I caused a true and correct copy of the AMENDED NOTICE OF APPEAL to be served via first class mail, postage prepaid upon Presiding Judge, Debra S. Watlington, at the following address:

Hon. Debra S. Watlington, Presiding Judge
Superior Court of the Virgin Islands
Division of St. Thomas and St. John
P. O. Box 70
St. Thomas, VI 00804

It is also certified that on the 1st day of September 2022, I electronically filed the AMENDED NOTICE OF APPEAL with the Clerk of the Court using the VIJEFS, which will send notification of such filing to the following:

Julie German Evert, Esq.
Law Offices of Julie German Evert
5043 Norre Gade, Ste. 6
St. Thomas, VI 00802
Email via VIJEFS: lawofficeofjulieevert@gmail.com
Attorney for Respondent

Laura C. Nagi, Esq.
Laura Castillo Nagi,
Attorney & Counselor at Law, PLLC
5043 Norre Gade, Suite 6
St. Thomas, VI 00802
Email via VIJEFS: laura@lauranagilaw.com
Attorney for Respondent

Justin K. Holcombe, Esq.
Dudley Newman Feuerzeig, LLP

Stephen Evans-Freke vs. Valerie Evans-Freke
SCT-CIV-2022-0046
ST-2016-DI-00166
AMENDED NOTICE OF APPEAL
Page 5

Attorneys for Petitioner
Law House – 1000 Frederiksberg Gade
St. Thomas, VI 00802-6736
Email via VIJEFS: jholcombe@DNFvi.com

/s/ Andrew L. Capdeville

FILED

August 23, 2022 06:33 PM
ST-2016-DI-00166
TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)	
Petitioner,	)	FAMILY NO. ST-2016-DI-00166
vs.)	
	)	ACTION FOR DIVORCE
VALERIE EVANS-FREKE,)	
Respondent.)	

PENDENTE LITE ORDER

This matter came on for a hearing on June 2, 2022, before the Honorable Debra S. Watlington on Respondent's Emergency Motion for Pendente Lite Support, Expert Forensic Accountant Fees and Costs, and Attorney's Fees and Costs Pendente Lite filed on March 11, 2022, and other pending motions. Petitioner, Stephan Evans-Freke, appeared personally and through counsels Andrew Capdeville, Esq., and Justin Holcombe, Esq.¹ Respondent, Valerie Evans-Freke, also appeared personally and through counsels Laura Nagi, Esq., and Julie Evert, Esq. The Court heard sworn testimony from the parties and their witnesses and admitted evidence from both parties.

The Respondent seeks *pendente lite* support, attorneys' fees, and costs, including costs for an expert forensic accountant. She asserts that the Petitioner has been able to continue to live the same lifestyle he had throughout their marriage using marital funds while the Respondent lives in a house that is falling apart, is locked out of marital properties, has an 18-year-old Range Rover in need of repairs, and cannot afford to pay her legal fees. The Respondent asks the Court to look at the Respondent's needs versus the Petitioner's ability to pay.

The Respondent seeks the following: (1) that her current allowance of \$5,000 monthly be increased to \$10,000 monthly; (2) that the \$5,000 monthly she is allowed to use on Petitioner's AMEX card be set as a yearly amount of \$60,000 which will allow the Respondent to use the funds as she deems fit; (3) \$25,000 monthly for attorney fees as well payment of any additional fees; (4) an interim rental vehicle; (5) half of the Petitioner's American Airlines miles; (6) use of the castles in Ireland; (7) fees for expert forensic

¹ Attorney Holcombe appeared via zoom and the hearing lasted through June 3, 2022.

accountant; (8) that Tuxedo Club be transferred into her name but that Petitioner continue to pay the fees, and (9) that all her medical expenses be paid for by the Petitioner.

The Petitioner asserts that he has always maintained and provided for the Respondent throughout their marriage and since their separation in 2008. He further contends that the Respondent has over \$300,000 at her disposal, if the money she receives yearly from the Petitioner and the cash in her possession are added. In contrast, the Petitioner argues that he does not have access to large quantities of cash or a means to become liquid. Additionally, he presently supports multiple individuals to include his 3 sons, two of whom he shares with the Respondent. The Petitioner contends that the Respondent can pay for the items she is requesting with the support she currently receives and therefore she does not have a need. Furthermore, he claims that due to his inability to become liquid, he does not have the ability to pay.

Pursuant to Title 16 V.I.C § 108, the Court has the power and authority to issue a temporary award of alimony pending a final decree. Title 16 V.I.C § 108 provides, in pertinent part,

After the commencement of an action, and before judgment therein, the court may, in its discretion, provide by order (1) that a party in need obtain from the other party such funds as may be necessary to enable the party in need to prosecute or defend the action, as the case may be; ... (3) for the freedom of the wife from the control of the husband during the pendency of the action and the court may restrain either or both parties from disposing of the property of either party pending the action.

In the present matter, a Divorce Decree was already entered on February 14, 2022.² However, a final judgment on equitable distribution of marital property was deferred for a later determination.³ To determine whether interim support is appropriate, the Court must weigh the Respondent's needs and capacity for gainful employment and the Petitioner's ability to pay. Specifically, Title 16 V.I.C § 345(a) provides:

The amount provided for support, except for the support due to or on behalf of a child or children, shall be proportioned to the resources of the person giving such support and to the necessities of the party receiving it, and shall be

² Supreme Court Mandate issued on January 20, 2022, directed this Court to enter the Divorce Decree.

³ See Divorce Decree dated February 14, 2022.

reduced or increased in proportion to the resources or the necessities of the latter.

ANALYSIS

I. Respondent's Needs

Personal Needs

The Respondent is almost 70 years old. She does not have a college degree and has not had a paying job since 1989. She previously worked as a model. During the marriage, Respondent raised the parties' two boys who are now adults. She decorated and entertained but never worked outside of the home. The Petitioner provided for the Respondent throughout the marriage and has always maintained the finances.

The Respondent has savings in the approximate amount of \$176,300.00. However, her only source of income is the \$5,000.00 paid to her monthly by the Petitioner and access to \$5,000.00 per month on the Petitioner's American Express Credit Account (AMEX). In addition to the monthly support being provided by the Petitioner, he also pays the Respondent's household expenses which include mortgage fees, utility fees, electricity, Tuxedo Club membership, cell phone, home entertainment, among other things. However, repairs to the home are needed but are not being done by anyone.⁴

The Respondent testified that her monthly expenses include food, gas, entertainment, monthly tolls, parking, dry cleaning, and travel. The Respondent asserts that her monthly expenses are upwards of \$26,217.00, which leaves a deficit of at least \$16,217.00 after receiving her current monthly support from the Petitioner. Furthermore, the Respondent asserts that she should be able to continue to enjoy the same lifestyle as the one she had during the marriage, as the Petitioner continues to do so.

Respondent's Need for a Reliable Vehicle

The Respondent is currently driving a 2004 Range Rover. The car is 18 years old, need various costly repairs, and the key cannot be removed from the ignition.⁵ The vehicle needs

⁴ Exhibit of pictures of the pantry, hallway, guest bedrooms & dressing room were admitted which depicted peeling paint, leaky ceilings, and other water damage. See Respondent's Exhibit 28

⁵ Respondent requires someone to stay in the car when she drives it and must park, since the key is stuck in the ignition.

repairs to the brakes and the key removed from the ignition, which are all safety issues.⁶ Repairs are estimated at \$33,00.00. ⁷At the hearing, the Respondent requested that the Petitioner provide a rental vehicle until a determination can be made for a replacement. However, on June 16, 2022, the Petitioner advised the Court that the parties have agreed that the Petitioner will pay for the repairs needed on Respondent's vehicle because it is more affordable than renting a car in the interim.⁸ The Respondent needs a safe and reliable vehicle.

Respondent's Medical Expenses

The evidence revealed that, unbeknownst to the Respondent, she still has health insurance coverage paid by Petitioner and he intends to maintain her coverage. Petitioner has medical, dental, optical, and therapeutic needs. Additionally, Respondent appears to be eligible for social security benefits, including Medicare, and can apply for same.⁹ Respondent has a need for healthcare expense coverage, a need which is provided by the Petitioner.

Attorney's Fees

Respondent asserts that she needs *pendente lite* support to cover her vast legal fees to litigate this matter on an even ground with the Petitioner. She contends that when this divorce action was filed by the Petitioner, he knew that Respondent relies on him for financial support. She owed, at the time of hearing, \$70,000 to her current counsel and \$50,000 to New York attorneys for legal expenses incurred for the parties' divorce.

The law is clear that the parties should be equally able to finance their respective cases. The parties acquired vast assets during their marriage in the United States and Ireland, to include real properties, businesses, investment accounts, among others. Due to the complexity of this matter, discovery is expected to be extensive and may require expert analysis to determine the marital assets and the value of same, particularly if the parties fail to cooperate.

The Respondent has submitted an Ex Parte Affidavit of Attorney's Fees and Costs dated June 8, 2022, which shows attorney fees incurred to date in the amount of \$86,630.00

⁶ See Respondent's Informational Motion with Updated Information Pertaining to the Respondent's Vehicle filed on June 14, 2022

⁷ See Respondent's Exhibit 2.

⁸ See Petitioner's Response to Informational Motion with Updated Information Pertaining to the Respondent's Vehicle filed on June 16, 2022.

⁹ Petitioner's Comptroller Daniella Kauffman testified that she assisted Respondent with enrolling for Medicare but is unaware if she followed through.

with an estimated expected total of over \$800,000.00 if the case goes to trial. The affidavit further shows that Respondent owes counsel approximately \$64,070.00 to date.

In addition to Attorney's fees, Respondent seeks funds to cover the cost of an expert forensic accountant to assist on the case. Mr. Gregory Cowhey provided sworn testimony about his qualifications, his hourly rate, his efforts to assess the value of some of Petitioner's assets based on early discovery, his concerns about the reliability of Petitioner's financial statements, changes in net worth, among others.

To determine a fair and reasonable award of attorneys' fees, under Title 16 V.I.C. § 541(b), the Virgin Islands Supreme Court has examined the following factors:

the time and labor required, the novelty and difficulty of the issues involved, the level of skill needed to properly conduct the case, the customary charges of the bar for similar services, the amount involved in the controversy, the benefits resulting to the client from the services, and the contingency or certainty of compensation.¹⁰

The *first factor* that the Court reviews is the time and labor expended in this matter. This is a high conflict matter with vast assets. According to the affidavit of Respondent's counsels, they have spent approximately 200 hours on research, reviewing orders, drafting, and filing motions, among other things. It appears from the record that most, not all, of the tasks performed by counsel were relevant to the matter, and the time spent to be reasonable. In *Kalloo*, the Supreme Court pointed out that the "attorney's fees awards should represent a fair and *reasonable* portion of...[the] attorney's fees incurred in the prosecution or defense of the action, and not [necessarily] the whole amount charged by the attorney."¹¹

The *second factor* the Court must determine is the level of complexity in the matter. This is a highly complex case with significant marital assets in various parts of the world. It is expected that both parties' respective counsels will have to spend significant time preparing and working on this case and may have to hire specialist to effectively handle the case. Mr. Gregory Cowhey, Respondent's expert forensic accountant who specializes in high net-worth divorce cases, further testified that he believes that his anticipated costs for this matter would

¹⁰ *Judi's of St. Croix Car Rental v. Weston*, 2008 V.I. Supreme LEXIS 21, *3(V.I. 2008).

¹¹ *Kalloo v. Estate of Small*, 62 V.I. 571, 584 n. 11 (V.I. 2015).

be approximately \$240,000.00. The Respondent has already paid Mr. Cowhey a retainer in the amount of \$25,000.00 and contends that she cannot afford to continue to pay his fees with the current support she is receiving from the Petitioner. Respondent's anticipated costs to hire an expert forensic analyst constitute part of her legal expenses as it legitimately falls under the category of legal fees and costs. However, the selection of an expert or any member of Respondent's legal team is outside the purview of the court.

Due to the volume and complex nature of the assets in this case, the Court finds that this matter requires Counsel with an above average skill level, which is the *third factor* the Court must weigh. As indicated above, the assets in this case are significant and the parties are entitled to have counsels with sufficient experience.

The *fourth factor* is whether the hourly rate being charged by counsel is customary within the Virgin Islands. "The prevailing party bears the initial burden of establishing that the requested hourly rates are in line with comparable market rates for legal services."¹² In Charlery v. STX Rx, the Court noted that a reasonable hourly rate in this jurisdiction spans from \$125 to \$300 per hour, with exceptions based on counsel's expertise and case complexity.¹³ Considering that more than ten years have passed since that case was decided, it is reasonable for attorney's fees to have increased. The Respondent's counsel charges fees in the amount of \$400.00 per hour in office and \$500.00 per hour for court and mediation time, which is comparable to what other attorneys in the territory with similar experience charge. Additionally, both Julie German Evert, Esq., and Laura C. Nagi, Esq., have significant experience, particularly in divorce matters. Therefore, the Court will accept the hours as presented by counsels as reasonable under the circumstances.

Fifth, the case involves the equitable distribution of the parties' estate. The vast marital property is estimated to be valued in the millions. *Sixth*, the Court considers the benefits resulting to the client from the services. Since Respondent has relied on the Petitioner for support at least half of her adult life, lacks capacity for gainful employment in view of her age and minimal employment history, it appears that she would benefit from quality legal services. Moreover, interim fees are being requested to specifically make a case for equitable distribution, which the Court must still decide. Finally, the Court considers the contingency or

¹² Charlery v. STX Rx, Inc., 2011 WL 4025438, *2, 2011 U.S. Dist. LEXIS 101500, *4-5 (D.V.I. 2011).

¹³ *Id.*

certainty of compensation. The Petitioner must understand the Respondent has no income and therefore will be unable to cover the fees without assistance from him.

Since this is a request for interim support and award of attorney fees and costs, the court must put the Respondent on equal footing with the Petitioner in her defense of this matter. However, the Court is not required to make an award to cover attorneys fees incurred in the New York case which the Respondent filed.

II. Petitioner's Ability to Pay

During the hearing, the Petitioner testified that his current net worth, as of March 31, 2022, is approximately \$25 million dollars, that he earns between \$50,000.00 to \$70,000.00 from his companies' monthly distributions which income he uses to support multiple individuals including the Respondent. Currently, the Petitioner lives in a five-bedroom house located at 16 Estate Nazareth, St. Thomas, Virgin Islands, with his current wife and the monthly rent is \$12,000.00.

The Petitioner supports all his sons, Roland, Yorick and Tristan. His two adult sons are of the parties' marriage. Petitioner explained that he supports his adult son, Roland because of his health issues which he covers as needed. The Petitioner also spends over \$100,000.00 annually on the other adult son Yorick as he is currently working on two startup companies without pay. Yorick's wife assists with running accounts and is paid a salary of approximately \$5,000.00 a month. Yorick and his wife both live rent free in Ireland on one of the properties owned by the parties. Petitioner's third son, a minor with a disability, lives in Paris with his mother and Petitioner pays for their rent, his son's schooling, including a private tutor, and extra space for tutoring.

The Petitioner explained that while he has had lucrative years in the past, he is currently in the midst of hardship. His income has mostly been based on transactional fees and the last 18 months have been very difficult. He purports that Auvén Therapeutics is in breach of their loan covenant and the Petitioner has three months to salvage it. He described the hardship as "one of the worst crises of his business career." He further asserted that he is currently struggling to pay his bills which include \$35,000.00-\$40,000.00 a month in support to Respondent, an additional \$40,000.00 in support for his children, approximately \$18,000.00 in

his personal living expenses in St. Thomas, and the payroll for all of his employees.¹⁴ He believes that his financial situation will improve and he can become more liquid by August 2022, although this is not a guarantee. He maintains that he simply cannot afford to pay any more in support at this present time.

However, the Respondent's expert presented contradictory evidence. Mr. Cowhey testified that after review of Mr. Freke's tax returns, there is no indication that he is not able to pay more in support. Mr. Cowhey asserts that the tax returns from 2020 show an income of millions of dollars and that over the last five years, Mr. Freke's after tax annual income was approximately \$5.75 million dollars.

Currently, the Petitioner is covering most of the Respondent's living expenses and provides monthly support in the amount of \$5,000.00 and monthly access to \$5,000.00 on the AMEX credit card without rollover benefits.

Notwithstanding the economic downturn that Petitioner's companies experienced, it appears that Petitioner has sufficient resources to maintain his lifestyle and fulfill all his responsibilities, some of which are responsibilities of choice. There is no evidence that he reduced any expenditures or amenities due to financial hardship. Further, he has not sought to dispose of any assets to maintain his businesses or family. Instead, the evidence shows that Petitioner has the ability to pay Respondent's reasonable living expenses and he should continue to take care of her needs, including reasonable legal expenses associated with this matter.

III. Respondent's Additional Requests

Use of the Ireland Properties

Currently, the Respondent has exclusive use of the Tuxedo Park Property, and the Petitioner has exclusive use of the Ireland properties. Petitioner testified that this has been the case since 2011. Each property is filled with the personal belongings of the respective party. Respondent has not been on the Ireland properties since 2011 and Petitioner disputes that she has any remaining personal property on the premises. There appears to be no need for the Respondent to access the Ireland properties.

¹⁴ See Respondent's Exhibit #27- "Husband's Income and Expenses 2019-2021"

As such, until a determination of equitable distribution is made regarding the marital properties, the parties shall maintain the status quo and have exclusive use of the properties they presently occupy.

50% of Petitioner's Airline Miles

The evidence revealed that the parties' son, Yorick Freke, and his wife have depleted all the parties' airline miles. As such, there are no airline miles available to be awarded to the Respondent. There is no need for airline miles and no ability to provide same.

CONCLUSION

The burden of substantiating her claim that she has a need, and that the Petitioner has the ability to pay falls on the Respondent.¹⁵ Considering the analysis above, the Court finds that the Respondent has met her burden. Respondent has significant needs including reasonable living expenses, attorney's fees and costs, a reliable vehicle, and health benefits. The Respondent's age, limited work history and experience, serves as evidence of her lack of capacity for gainful employment and income producing capability and supports her need for *pendente lite* support while this matter is pending. In fact, her needs are the same as during the marriage. The Petitioner has covered the Respondent's living expenses to date, which shows his ability to pay and maintain support. Furthermore, recognizing the need and the life which she is accustomed, the parties have agreed that the Petitioner will cover the costs to repair Respondent's vehicle and transfer Tuxedo Club membership to Respondent at Petitioner's expense.

Additionally, this Court finds that Respondent's requests for attorney's fees, and costs, is appropriate and that she is entitled to reasonable attorney's fees and costs to defend this action.

Based on all the above factors, the Court will award an amount of \$350,000.00 for interim attorney's fees and costs, inclusive of cost associated with any expert or professional services determined necessary by Respondent and her legal team, who may decide how to allocate the available funds.

Accordingly, it is hereby,

¹⁵ *Fabien v. Fabien*, 69 V.I. 809, 815, 2018 V.I. Supreme LEXIS 28, *7 (quoting *Berrios-Rodriguez*, 58 V.I. at 490).

ORDERED that Respondent's Motions for Pendente Lite Support, Award of Costs and Attorneys' Fees is **Granted**, in Part, as determined reasonable by the Court; and it is further

ORDERED that the Petitioner shall provide the Respondent with monthly support to \$7,500.00; and it is further

ORDERED that the Respondent shall have access to \$5,000.00 per month on Petitioner's AMEX card with any unused funds to rollover to the following month totaling no more than \$60,000.00 per year; and it is further

ORDERED that Respondent is awarded interim attorney's fees and costs in the amount of \$350,000.00 for legal expenses as Respondent's counsels determine; and it is further¹⁶

ORDERED that Petitioner shall make repairs for Respondent's vehicle or purchase a vehicle of similar type and value, whichever is most cost effective within thirty (30) days of this Order; and it is further

ORDERED that Petitioner shall pay Respondent's medical expenses by maintaining her health insurance coverage, and pay any costs not covered by insurance or Medicare; and it is further

ORDERED that Respondent shall apply for Social Security benefits and enroll in the Medicare program to supplement her health insurance; and it is further

ORDERED that the parties shall maintain the status quo and have exclusive use of the properties they are presently occupying until such a time as this Court distributes the marital property; and it is further


ORDERED that Petitioner shall transfer Tuxedo Club membership to Respondent and pay membership fees as previously agreed; and it is further

¹⁶ This award does not include costs for attorneys' fees that Respondent incurred for the New York case.


ORDERED that Petitioner shall continue to pay all expenses for Tuxedo Park, including mortgage, utilities and maintenance, consistent with the May 15, 2022 Temporary Standing/Status Quo Order; and it is further

ORDERED that copies of this Order shall be directed to Justin Holcombe, Esq. and Andrew L. Capdeville, Esq. as counsels for the Petitioner and copies shall be directed to Laura C. Nagi, Esq. and Julie German Evert, Esq. as counsels for the Respondent.

DATED: August 22, 2022


DEBRA S. WATLINGTON
Presiding Judge of the Superior Court

ATTEST:
TAMARA CHARLES
Clerk of the Court

By: 
Brenda Monsanto
Court Clerk Supervisor 8/23/2022

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,

Plaintiff,

vs.

VALERIE EVANS-FREKE,

Defendant.

CASE NO. ST-16-DI- 1660

ACTION FOR DIVORCE

VERIFIED COMPLAINT FOR DIVORCE

The Plaintiff, STEPHEN EVANS-FREKE, through his attorneys, Dudley, Topper and Feuerzeig, LLP, by Henry L. Feuerzeig, for his complaint against Defendant, VALERIE EVANS-FREKE, alleges:

1. This Court has jurisdiction pursuant to 4 V.I.C. §76(a) (1997) and 16 V.I.C. §101, *et seq.* (2012) and Supp. 2015.
2. Plaintiff is an inhabitant of St. Thomas, U.S. Virgin Islands who was domiciled therein and who has resided therein continuously and uninterruptedly for at least six weeks prior to the commencement of this action, and has been a resident since 2008.
3. Defendant is a resident of Tuxedo Park, New York.
4. Plaintiff and Defendant were legally married on December 27, 1990, in Norfolk, Connecticut. Two children were born of the marriage, YORICK PETER EVANS-FREKE, born February 24, 1992, and ROLAND CHARLES GOODHEART EVANS-FREKE, born November 19, 1993, both of whom are emancipated.

5. Plaintiff and Defendant separated in 2008 and have been living separate and apart since that time.

6. There has been an irreconcilable breakdown of the marriage to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.

7. Plaintiff and defendant acquired property in their joint or separate names during the course of their marriage that requires disposition by this court.

8. **WHEREFORE**, Plaintiff Stephen Evans Freke requests the entry of a decree of divorce dissolving the marriage between the parties, granting him all right title and interest to property titled solely in his name and a disposition of any marital assets that are held jointly by the parties, and such other relief as the court deems just and proper.

Respectfully submitted,

DUDLEY, TOPPER and FEUERZEIG, LLP

DATED: November 14, 2016

By:


HENRY L. FEUERZEIG (V.I. Bar #270)

Law House

1000 Frederiksberg Gade (P.O. Box 756)

St. Thomas, VI 00804-0756

Telephone: (340) 774-4422

Facsimile: (340) 715-4400

E-Mail: hfeuerzeig@dtflaw.com

Attorneys for Plaintiff

Stephen Evans-Freke (v. Valerie Evans-Freke)
Verified Complaint for Divorce
Page 3 of 3

VERIFICATION

1, STEPHEN EVANS-FREKE, being first duly sworn, state I have read the aforesaid Verified Complaint for Divorce and, under the penalty of perjury, state that the facts stated therein are, to the best of my knowledge, true and accurate.

DATED: November 14, 2016

Stephen Evans-Freke
STEPHEN EVANS-FREKE

TERRITORY OF THE U.S. VIRGIN ISLANDS)
) SS.:
 DIVISION OF ST. THOMAS AND ST. JOHN)

On this ____ day of November, 2016, before me, the undersigned authority, personally appeared, **STEPHEN EVANS-FREKE**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledge that he executed the same for the purposes therein contained.

Notary Public
My Commission Expires: _____

Henry L. Fowers
My Commission Expires January 30, 2020
LNF-01-16

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**DUDLEY, TOPPER
AND FEUERZEIG, LLP**
1000 Fredericksburg Gate
P.O. Box 756
L. Thomas, U.S. VI. 00804-0756
(340) 774-4422

SEF35

FILED

February 14, 2022 01:59 PM

ST-2016-DI-00166

TAMIARA CHARLES
CLERK OF THE COURT

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

STEPHEN EVANS-FREKE,)	
Plaintiff,	)	FAMILY NO. ST-2016-DI-00166
)	
vs.	)	ACTION FOR DIVORCE
)	
VALERIE EVANS-FREKE,)	
Defendant.)	

DECREE OF DIVORCE

This matter came before the Court on the Plaintiff's Motion for Partial Summary Judgment filed on March 23, 2018. Defendant filed an Opposition thereto and Plaintiff subsequently filed a Reply. In his motion, the Plaintiff states that there are no genuine issues of material fact in dispute and the parties agree that their marriage is irreconcilably broken. Plaintiff asks the Court to enter partial summary judgment in his favor and award a Decree of Divorce Absolute dissolving the marriage entered between Plaintiff Stephen Evans-Freke and Defendant Valerie Evans-Freke. In support of his motion, Plaintiff offers, among others, his Affidavit, a verified Divorce Complaint and Defendant's Answer.


Accordingly, consistent with the Opinion of the Supreme Court of the Virgin Islands dated December 30, 2021 and its Mandate of January 20, 2022, the Court has determined that there are no genuine issues of material fact which can preclude an entry of partial summary judgment. In accordance with the Findings of Facts and Conclusions of Law entered on even date, it is hereby

ORDERED, ADJUDGED AND DECREED:

1. The Plaintiff, Stephens Evans-Freke is granted a Decree of Divorce Absolute from the Defendant, Valerie Evans-Freke forever dissolving the marriage entered between the parties on December 27, 1990.
2. There are no minor children of the marriage.

3. The parties have jointly owned real and/or personal property, which distribution is deferred for a later determination by the Court.

DATED: February 14, 2022


DEBRA S. WATLINGTON
Judge of the Superior Court
of the Virgin Islands

ATTEST:
TAMARA CHARLES
Clerk of the Court

By:


BRENDA MONSANTO
Court Clerk Supervisor, 2/14/2022

FILED

February 14, 2022 01:55 PM
ST-2016-DI-00166
TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)	
Plaintiff,	)	FAMILY NO. ST-2016-DI-00166
)	
vs.)	
)	
VALERIE EVANS-FREKE,	)	ACTION FOR DIVORCE
Defendant.)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came before the Court on Plaintiff's Motion for Partial Summary Judgment filed March 23, 2018.¹ Defendant filed an Opposition thereto and Plaintiff subsequently filed a Reply. Plaintiff Stephens Evan-Freke asserts that there are no genuine issues of material fact in dispute and with respect to the parties' marriage, they agree that it is irreconcilably broken. Plaintiff asks the Court to enter partial summary judgment and award a Decree of Divorce Absolute from Defendant, Valerie Evans-Freke. In support of the motion, Plaintiff offers, among others, his Affidavit, verified Divorce Complaint, and Defendant's Answer.

The premises considered and the Court being satisfied that there are no genuine issues of material fact which can preclude an entry of partial summary judgment, the Court hereby enters partial summary judgment. Accordingly, the Court makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Plaintiff is an inhabitant and domiciliary of the U.S. Virgin Islands and has resided therein continuously and uninterruptedly for at least six (6) weeks prior to the commencement of this action.
2. The parties were married on December 27, 1990 in Norfolk, Connecticut.
3. There has been a breakdown of the marital relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.
4. There are no minor children of the marriage.

¹ These Findings of Fact and Conclusions of Law are issued consistent with the Opinion of the Supreme Court of the Virgin Islands dated December 30, 2021 and Mandate of January 20, 2022.

5. The parties have jointly owned real and/or personal property requiring distribution by the Court.

6. The parties have neither waived nor asserted their right to alimony.

CONCLUSIONS OF LAW

1. The Court has jurisdiction over the parties and this subject matter pursuant to Title 4 V.I.C. § 76(a) and Title 16 V.I.C. § 106 *et seq.*


2. There has been a breakdown of the marital relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.

3. The parties are entitled to a Decree of Divorce Absolute thereby dissolving the marriage entered between them on December 27, 1990.

4. There are no minor children of the marriage.

5. The parties have jointly owned real and/or personal property that require distribution by the Court which determination will be deferred until a later date.

DATED: February 14, 2022


DEBRA S. WATLINGTON
Judge of the Superior Court
of the Virgin Islands

ATTEST:
TAMARA CHARLES
Clerk of the Court

By:


BRENDA MONSANTO

Court Clerk Supervisor, 2 / 14 / 2022

March 11, 2022 06:53 PM
ST-2016-DI-00166
TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,

Petitioner,

v.

VALERIE EVANS-FREKE

Respondent.

FAMILY NO. ST-2016-DI-00166

ACTION FOR DIVORCE

**EMERGENCY MOTION FOR *PENDENTE LITE* SUPPORT, EXPERT FORENSIC
ACCOUNTANT FEES AND COSTS, AND ATTORNEY'S FEES AND COSTS**
PENDENTE LITE

COMES NOW, the Respondent VALERIE EVANS-FREKE, by and through her undersigned counsel, pursuant to Title 12 VIC, Section 108, *Poe v. Poe*, 409 FR. 2d 40, 7 V.I. 30, 1969 U.S. App. LEXIS 13167 (3d Cir. 1969), *Fabien v. Fabien*, 69 V.I. 809 (VI Supreme Court 2018), *Slack v. Slack*, 69 V.I. 547 (VI Supreme Court 2018) and respectfully moves this Honorable Court for an order awarding her pendente lite alimony, expert forensic accountant fees and costs, and attorney's fees and costs¹. As and for the basis of this request, Respondent shows to the Court as follows²:

BACKGROUND ON THE PARTIES

The parties met in 1984 when Respondent (Valerie) was twenty-nine (29) years old, and the parties married each other when Respondent was thirty-six (36) years old. Valerie is now sixty-seven (67) years old, and Petitioner (Stephen) is now seventy (70). The parties made their

¹ *Hatchette v. West Indian Co., Ltd.*, 17 V.I. 549 (D.C.V.I. 1980); statutory citations in a motion fulfill the requirement of LRCi 7.1(e) requiring a brief in support of a motion.

² See the Affidavit of Valerie Evans-Freke attached hereto as **Exhibit "A"**.

fortune and raised their two sons while living in San Francisco and then Tuxedo Park, New York, which is a wealthy enclave that listed 623 residents on the 2010 Census. Stephen is presently the Co-Founder and Managing Partner of Auvén Therapeutics. On the Auvén Therapeutics website, Stephen describes himself in part, as follows:

Born in Ashbourne House in Country Meath, Ireland, to Sir Peter Evans-Freke, the 11th Baron Carbery, and his wife Joyzelle, the Hon. Stephen Evans-Freke traces his roots to Elizabethan Ireland of the 16th Century. His Welsh Celtic lineage can be traced to Elystand Glodrydd, Prince of Fferlys, a celebrated Celtic leader in the 10th Century wars against the invading Anglo Saxons.

In 1973, Mr. Evans-Freke graduated with a law degree from Trinity College, Cambridge University. He joined the newly established mining and precious metals department of London-Based international stockbroker W.I. Carr, and soon after found himself in South Africa working with IBM to build the first computer program for valuing gold mines. In 1975, he was named by Institutional Investor as one of the top three mining analysts in their annual poll of investment managers.

The following year, he moved to New York, becoming one of Wall Street's leading life science and biotechnology bankers and rising to become President of PaineWebber Development Corporation and later a member of PaineWebber's Board of Directors. Since leaving Wall Street in 1990, he has made his mark as an investment manager, entrepreneur, and venture capitalist in the biotechnology industry. He founded or co-founded several pharmaceutical companies, including SUGEN, which was sold to Pharmacia Corporation for \$720 million in 1999, a transaction credited with starting the bull market in biotech over the following years.

See Exhibit "B," which is the website referenced above, which is attached hereto and made part hereof.

Attached and made part hereof as Exhibit "C" is a webpage about Stephen and his financial interest in Celtic Therapeutics and Celtic Pharma, both global private equity funds which are focused on the pharmaceutical industry, which indicate that during the 1980s Stephen placed over \$500 million of highly successful Research and Development partnership financing.

Stephen is British, and he also holds an Irish passport. Stephen never sought American citizenship and even though Stephen and Valerie made their fortune in the United States, Stephen

is now moving all the parties' assets to Ireland, where the tax advantages outweigh any tax advantages provided when they sought tax benefits by Stephen residing in the US Virgin Islands.

Stephen and Valerie socialized with the rich and famous during their marriage. They have attended private events with British Royalty. A copy of a photograph of Valerie with Prince Phillip is attached hereto and made part hereof as **Exhibit "D."** Both Stephen and Valerie have been invited to multiple events at Buckingham Palace. Copies of some of those invitations are attached hereto and made part hereof as **Exhibit "E."**

The parties own **TWO** castles in Ireland. Castle Freke, the parties' namesake castle, is located in Ireland a mere 15 minutes away from a castle owned by movie star Jeremy Irons. **Exhibit "F"** is a collection of articles about the two castles. Castle Freke was not Stephen's initial "idea" to purchase. It was Valerie who first suggested that they purchase the property.

Stephen does appear to hold antiquated ideas about a wife being chattel and not having any rights to property that is acquired during a marriage. Stephen appears to believe that what the parties obtained during the marriage belongs only to him, which is not the law in the US Virgin Islands.

Stephen, a lawyer, and entrepreneur never obtained a prenuptial agreement. Yet Stephen persists in keeping everything for himself and for his mistress, outside child, fiancée, and her family, and prevents and forbids Valerie from having access to the properties and monies which are half hers. Valerie trusts that this Honorable Court will explain to Stephen that the assets acquired during the marriage, are marital in nature, and cannot be unilaterally sold, transferred, or hidden by Stephen, as he has done, despite the status quo ordered entered by the State of New York.

In 1999 Valerie and Stephen purchased a 37-acre Estate in Tuxedo Park, New York, which is a gated village with its own Police Force. Many houses have multiple buildings on them that are called “carriage houses.” Valerie and Stephen’s carriage house Tuxedo Park is approximately 5,000 square feet. Tuxedo Park is upon information and belief, the first “gated community” in the United States. The evening dress for men now popularly known in America as a *tuxedo*, takes its name from the very Tuxedo Park where the parties resided for decades, and the way its residents dressed for dinner and events. Since its inception, Tuxedo Park has been a bastion for the wealthy including Adele Colgate – heir to the Colgate-Palmolive fortune, J.P. Morgan – banker, and William Waldorf Astor. *The Blue Book of Etiquette* was written by Emily Post, who wrote the book based on what she observed inside the great stone gates of Tuxedo. A *Wikipedia* article about Tuxedo Park is attached in part and made part hereof as **Exhibit “G.”**

Valerie has lived in the Tuxedo Park Estate for more than 23 years. Her friends live in Tuxedo Park. Tuxedo Park is not merely an asset to be sold. It is the family home. The castles, church, and land that the parties own throughout the world are assets acquired during the marriage. Valerie wants to remain in Tuxedo Park. Upon information and belief, Stephen wants everything else, including all assets located wherever situated in the world.

In 2017 the New York court entered a bare minimum Status Quo Order which required Stephen to continue to pay the mortgage, taxes, and maintenance expenses on the Tuxedo Park. A copy of the June 2017 Order is attached hereto and made part hereof as **Exhibit “H.”** In its Order and Memorandum referenced above, the New York Court acknowledges the scorched earth style of litigation Stephen utilized in the New York divorce case. Respondent’s position is that the New York Court’s status quo Order is in fact the status quo until this Court hears testimony regarding

Respondent's necessary expenses needed to litigate this matter and necessary expenses needed to support herself in the manner in which she has lived for the past three decades.

Not surprisingly, Stephen held sole possession of the purse strings during the parties' marriage and during the pendency of the divorce. While Stephen gallivants all over the world, with his mistress and son in Paris, with his fiancée and her three daughters, traveling back and forth to Switzerland, England, and Ireland, Valerie looks after the marital home.

Stephen lives as he chooses with the parties' marital assets at his complete disposal. An article in *Irish Examiner* covered Stephen's restoration of Castle Freke stating that he has spent millions of Euros on Castle Freke. See **Exhibit "F."** In one of the many lawsuits brought by and against Stephen and the parties' many entities, the Irish Court found that "...Mr. Evans-Freke has averred that, when all of his liabilities are taken into account **his net worth is 'substantially more than US\$20 Million'**". See *paragraph #41 of Judgment of Mr. Justice David Keane* dated July 29, 2016 and attached hereto and made part hereof as **Exhibit "I"**.

In **Exhibit "I"** (at paragraph #10), the Irish Court found that Stephen (and Valerie), were paying Anne Oakes, the woman who sold them Rathbarry Castle, and whom they retained to oversee the design and remodeling and construction of both castles, **€3,000.00 Euros per week**, which is equal to **\$3,401.65 US Dollars per week** or **\$13,606.60 US Dollars per month**. At present, Stephen is releasing to Valerie **less than \$5,000 US Dollars per MONTH**.

Stephen can pay when he chooses to pay. Stephen's actions demonstrate that he has taken all the toys and money from the marriage, and he refuses to share with Valerie, while he spends and gives away the assets when they no longer fit his present lifestyle. Stephen also "allows" Valerie to use an American Express Platinum card up to \$5,000.00 per month; however, if Valerie

does not spend this amount each month, Stephen does not allow her to roll over the credit to the next month.

According to **Exhibit “I”**, Stephen provided evidence to the Court in Ireland that by 2016, he and Valerie invested €3,407,910 in the Castle. €3,407,910 converts to **\$3,864,171.21 US Dollars**. Upon information and belief, Stephen and Valerie have invested millions of additional dollars into Castle Freke since 2016, with dollars and euros that are marital assets.

Even though the castles are marital property, Stephen, who literally holds the keys to the castles, will not allow Valerie to visit any of the castles. Valerie will testify that Stephen threatened to have her arrested if she attempted to enter the castles.

Upon information and belief, during the pendency of the divorce, Stephen has held numerous parties and fundraisers at Castle Freke. Stephen paid the airfare for many Virgin Islanders to visit the castles, where, upon information and belief, butlers wake up the guests by asking the guests which horse they would like to ride that day, so that the stable staff can ready the horse. Stephen lives as though he is the Earl of Grantham at Downton Abbey, which is a television series that chronicles the lives of a British aristocratic family and their servants in the early twentieth century.

The parties have always had “staff” at their homes, including nannies, heavy housekeepers, light housekeepers, gardeners, ranch hands, cooks, grooms, butlers, valets, drivers, personal assistants, and security personnel. To continue the fantasy that they live in the era of servants and complete inequity between classes, despite the fact that social media is a given, upon information and belief, Stephen forbids guests at the castle from photographing the castle so that Valerie will not be able to learn via social media, or otherwise, the extent of the improvements, artwork and overall grandiosity of Castle Freke. Stephen works hard to ensure that the public and Valerie do

not know the manner in which he lives when he is in Ireland. The fact that Stephen forbids guest from photographing the interior of the castles so that Valerie cannot know what is inside her property, is proof of Stephen's scorched earth strategy to give Valerie little to nothing of the marital assets.

Valerie does not have "staff" to groom horses (she has two dogs, a kitten, and a pig), she does not have a chauffeur to drive her (she drives herself in an 18-year-old SUV) and she does not have a "dresser" to help her dress for dinner or events. Valerie walks her dogs and takes care of the house. There is an estate "caretaker" who does not live at the house, who helps part-time, although Stephen recently advised Valerie that he intends to fire the caretaker or strongly urge the caretaker to "retire". The caretaker's name is Jerzy, and he is close to 70 years in age.

Jerzy's claim to fame is that he was inducted into the Fencing Hall of Fame. In this regard, fencing does not refer to the construction of fences, but instead refers to a sport in which opponents attempt to contact each other's bodies using a modified sword, called a sabre. In the last few weeks, Stephen has advised Valerie that he wants Jerzy to retire, which would leave Valerie with nobody to assist in the maintenance of the Tuxedo Park Estate. Meanwhile, Stephen rocks on by spending the marital assets with no degree of accountability to Valerie at all.

Over the years, Stephen has moved much of the parties' wealth to Ireland. Despite their wealth, Stephen has a trail of multiple uncollected judgments against him, and one of those judgments is recorded against the Tuxedo Park Estate. The judgment recorded against the parties' Tuxedo Park estate is in a principal amount of approximately \$2.5 MILLION US DOLLARS. That judgment must be paid, or it will continue to accrue interest. Valerie is concerned that the judgment creditor will learn of the divorce and attempt to execute on the Estate. The Judgment creditor is a general contractor who performed work on the Tuxedo Park Estate.

Additionally, Valerie understands that Stephen made a deal with Deutsche Bank, in which the parties' indebtedness was reduced by approximately one-half in exchange for a mortgage on the Tuxedo Park Estate. If Stephen fails to promptly pay the mortgage, the bank will foreclose, which would leave Valerie on the street, as Stephen has forbidden her from using and/or entering any of the other marital properties.

Financial stability and home are critically important to Valerie because as a child her alcoholic father was not able to provide for the family. Valerie's mother would require Valerie to answer the front door when the bell rang to tell the bill collectors that her parents were not home. Valerie also moved around frequently due to her father's inability to support the family. As a result, Valerie lived with the fear of becoming homeless, and this fear, despite her present station in life, has never left her. Stephen is aware of these circumstances, and he has done everything in his power to destabilize Valerie emotionally, with his actions and conduct concerning their money and assets.

During their marriage, the parties traveled all over the world via private jet, operated and owned an 8000-acre cattle ranch in Northern California, they operated and owned a 129-acre oceanfront estate on the coast of Maine; they owned horses for each member of the family plus an additional ten horses which were kept at the California ranch; they owned other property including a "Lodge" in Ireland. The parties also own an old stone church that sits on the property next to Rathbarry Castle in Ireland. Valerie and her sons even traveled on one of the last trips to Europe by the supersonic Concorde.

The children of the parties attended the top boarding schools in the world, including an elite school in Switzerland. Stephen's malicious attempt to paint Valerie as a rich out-of-touch wife is pathetic, especially when one learns how Stephen is managing and living his life since he

left Valerie without access to their properties or money. The court will note the irony that Stephen continues to live as he did during the marriage, while Valerie has been shut off from the properties and monies that are half hers.

The parties have also owned multiple power and sailing yachts which were anchored and docked in Maine and Antigua. The parties owned a powerboat in St. Thomas called the “Celtic Fire”, and in a recent pleading filed by Petitioner, it is noted that Stephen sold the boat, although the pleading was the first time Stephen advised Valerie that he had sold the marital asset. It takes no imagination to understand that had the listing to sell not been discovered, Stephen would not have disclosed the listing or the sale to Valerie.

The last time that Valerie traveled to the castles in Ireland was in 2011. Rathbarry Castle had been completely restored by the previous owner. Stephen and Valerie resided in Rathbarry Castle while they worked on the restoration of Castle Freke, which was located across the street, and was a ruin. After the 2011 trip to Ireland, Stephen advised Valerie that the gates of Rathbarry Castle would be locked to her in the future and that she would be arrested if she tried to enter the castle because Stephen was housing his French mistress and baby son in Rathbarry Castle. Valerie was crushed emotionally because her personal things were inside Rathbarry Castle, and she was an integral partner and participant in the design and restoration of Castle Freke. Valerie is the person who suggested to Petitioner that they purchase both castles. She was intimately involved in the plans for the castle, and she was cast aside for the women who came into Petitioner’s life seeking money and fame after the castle was purchased.

Stephen has used the party’s money to develop new businesses. As an example, Stephen opened a gin distillery in Ireland, as well as other businesses, and he has secured favor and admiration in the US Virgin Islands, by hiring many Virgin Islands friends as well as their adult

children. The parties have two adult sons between them, and one of these young men is suffering from severe emotional problems. Upon information and belief, Stephen has made clear to others that “anything that Valerie has,” including the “clothes on her back” are only the result of his efforts.

Stephen’s arrogance and dismissal of Valerie’s contributions to the marital assets, is indicative of his attitude towards the preservation of the marital assets and economic needs of Valerie. Stephen’s statements demonstrate his callous disregard for Valerie and provide proof of his motivation to continue to take, sell and hide marital assets without Valerie’s knowledge or consent. He apparently believes that he is the “KING OF THE CASTLE(S),” and he can do what he wishes, including discarding wives and mistresses at his whim.

Stephen’s actions, in controlling all the marital assets and attempting to leave Valerie with nothing because the divorce decree was entered, are exactly the reason why Valerie fought NOT to bifurcate this case. However, the case is now bifurcated, and it is imperative that the Court schedule and hold a hearing immediately so that the marital assets can be preserved, and so that Valerie can retain and pay counsel and forensic accountants, as Stephen has failed to keep Valerie apprised as to what he has done with the marital assets. There is no doubt that Stephen is a brilliant financier, and it is no surprise that Stephen is adept at hiding assets, even if done “legally” such that Valerie no longer has any confidence that she knows what the parties jointly own.

Given the complexity of the financial assets involved in this matter, this may be a case in which the Court appoints a Master to oversee discovery and to ensure that this matter moves with the oversight it will likely require so that the Court can tend to its many other matters.

ARGUMENT

I. VALERIE IS IN NEED OF *PENDENTE LITE* SUPPORT, AND STEPHEN HAS THE ABILITY TO PAY

A. Respondent is in need of *pendente lite* support during the pendency of this action, and she is entitled to spousal support at a standard commensurate with the standard she enjoyed during the marriage

Under Title 16, Section 108 the Court has the authority to enter an Order ordering Petitioner to pay Respondent such funds as may be necessary to enable the Respondent to prosecute or defend the action, as the case may be, based on her need and the Petitioner's ability to pay. 16 V.I.C. 108. Neither the Virgin Islands Code nor the Rules of the Family Court specifically addresses a standard to be utilized when determining *pendente lite* support AFTER a decree of divorce has been entered. There is ample Virgin Islands law on how the Court should determine alimony, which is awarded at the time a divorce decree is generally entered and is based on the "need" of the spouse requesting alimony and the "ability to pay off the other spouse."

In this matter, the case is at the starting line as jurisdiction was only recently conferred on the Virgin Islands Court. Discovery will be a long process and will require forensic experts, and depositions. Legal fees will be extensive based on the discovery issues and scorched earth tactics of Petitioner. There is a New York Status Quo Order; however, the New York case is dismissed and there is no pending spousal support order upon which Respondent can seek to modify.

Respondent cites the law below concerning alimony and avers that the alimony standard is the standard to which the Court should follow as jurisdictions generally draw a distinction between "spousal support" applying before divorce is entered and "alimony" being awarded after the divorce is entered. In the case in which the divorce is entered prior to the equitable distribution of marital assets, the Court should utilize the alimony standard in determining what Valerie is entitled to receive from their marital assets and cash, over which Stephen has sole control. Virgin Islands

law concerning alimony provides a compass and guidelines for the Court to follow. There is no applicable Virgin Islands law on point in a case where the divorce is bifurcated from the equitable distribution of marital assets and one former spouse holds complete control over all of the marital assets. Stephen has the Power in the litigation because Stephen controls the cash. The economic disparity between the parties is so great that the Court must strike a balance. In determining alimony, the Court is obligated to consider the factors set forth below:

“When making a decision as to whether alimony is warranted, [a court] should consider and weigh a number of factors.” *Alleyne v. Alleyne*, 18 V.I. 544, 546 (D.V.I. 1981). These factors include “the circumstances surrounding the parties, the [dependent]’s necessities and the [provider]’s financial ability, the physical condition of the parties, the nature of their life together, and in these modern times [,] the [dependent]’s ... ability to earn her own way.” *Poe v. Poe*, 409 F.2d 40, 43 (3d Cir. 1969). The court has broad discretion in evaluating the operative factors inherent in alimony awards. *Alleyne*, 18 V.I. at 546.

The Virgin Islands Supreme Court in *Fabien v. Fabien* cited *Berrios-Rodriguez v. Berrios*, 58 V.I. 477, 485 (V.I. 2013), setting forth that “In setting an alimony award, the first inquiry is whether the parties will be “similarly situated after the divorce.” *Id.* at 485. If the Superior Court finds that the parties’ resources will be generally comparable after the divorce, the inquiry ends there. *Id.* If, however, the court finds that that the divorce causes an economic disparity between the parties, it must strike “the appropriate balance between the party in need for support ... and the other party’s ability to pay.” *Id.*; see also 16 V.I.C. § 345(a) (“The amount provided ... shall be proportioned to the resources of the person giving such support and to the necessities of the party receiving it and shall be reduced or increased in proportion to the resources or the necessities of the latter.”). Notably, “[i]t is a reality of divorce that economic difficulty often ensues for both parties because the same income cannot support two households to the same standard of living as one household was able to enjoy.” *Berrios-Rodriguez*, 58 V.I. at 486 (quoting *Anderson v.*

Anderson, 2007 WL 957186, at *7 (Tenn. Ct. App. Mar. 29, 2007)). *Fabien v. Fabien*, 69 V.I. 809, 815 (VI 2018).

The *Fabien* Court went on to state that the purpose of alimony is to provide for the further sustenance or support of *a former spouse*.” *Harvey v. Christopher*, 55 V.I. 565, 579 n.8 (V.I. 2011) (emphasis added) (quoting *Browne v. Browne*, 45 V.I. 625, 630-31 (D.V.I. App. Div. 2004)); *Myers v. Myers*, 231 P.3d 815, 817 (Utah Ct. App. 2010) (quoting *Ostermiller v. Ostermiller*, 190 P.3d 13, 15 (Utah Ct. App. 2008) (noting that “the principal purpose of alimony is economic to enable the receiving spouse to maintain as nearly as possible the standard of living enjoyed during the marriage and to prevent the spouse from becoming a public charge”)). *Id.* at 818.

The *Fabien* Court went on to state that “Its objective is to support and maintain a spouse as commensurate as possible to the standard of living the spouse seeking alimony enjoyed during the marriage, primarily to prevent the spouse from becoming a public charge. *See, e.g., Dahl v. Dahl*, No. 20100683, 2015 WL 5098249, at *5 (Utah Ct. App. Aug. 27, 2015); *see also Rule v. Rule*, 402 P.3d 153, 164 (Utah Ct. App. 2017) (noting that alimony should advance the three primary purposes of alimony namely: “(1) to get the parties as close as possible to the same standard of living that existed during the marriage; (2) to equalize the standard of living of each party; and (3) to prevent the recipient spouse from becoming a public charge”). *Id.*

The Virgin Islands Supreme Court has also stated that (“[T]he purpose of a *pendente lite* support application is to help financially bridge the gap in time between the beginning and the end [of the litigation], in an orderly fashion ... to provide the means for a supported spouse to survive at the start of an action.”). *Slack v. Slack*, 69 V.I. 567, 580 (V I Supreme Court 2018) .

In the Pennsylvania case of *Krakovsky v. Krakovsky*, 400 Pa.Super. 260, 583 A.2d 485 (1990) the Court stated that it has long recognized that an award of spousal support is separate and distinct from an award of alimony *pendente lite*. *Id. citing Levine v. Levine*, 360 Pa.Super. 297, 520 A.2d 466 (1987). The Krakovsky Court went on to state that “In a bifurcated divorce, as we have instantly, spousal support should terminate with the entry of the divorce decree. Alimony *pendente lite* may be awarded at a party's request for the period between the entry of divorce and the adjudication of the economic aspects of the marriage in order to maintain an equality between the former spouses in resolving their differences. *Id.* 520 A.2d at 467. Moreover, the Court stated that “the purpose of alimony *pendente lite* is to assist the disadvantaged party to maintain or defend the litigation until all the economic issues are resolved.” *Id.*

Similarly, the Supreme Court of Virginia in *Duke v. Duke*, 239 Va. 501 (1990) 391 S.E.2d 77 recognized the authority of the court to provide for spousal support “during the pendency of the suit” where despite the entry of a divorce decree, the decree contained a clear and specific reservation of jurisdiction over support and other matters. *Id. citing Cf. Losyk v. Losyk*, 212 Va. 220, 222, 183 S.E.2d 135, 137 (1971).

The parties accumulated an enormous amount of wealth throughout their marriage, yet Valerie has no independent ability to access any of the marital funds. She is strictly dependent on Stephen’s good graces, which the Court can see, are minimal. Stephen holds complete control over the parties’ finances.

Stephen has continued to live at the standard of living that the parties enjoyed during the marriage, and he uses marital funds to do so. Not only does Stephen continue to enjoy the wealth that the parties created during the marriage but so does his mistress and outside child as well as his

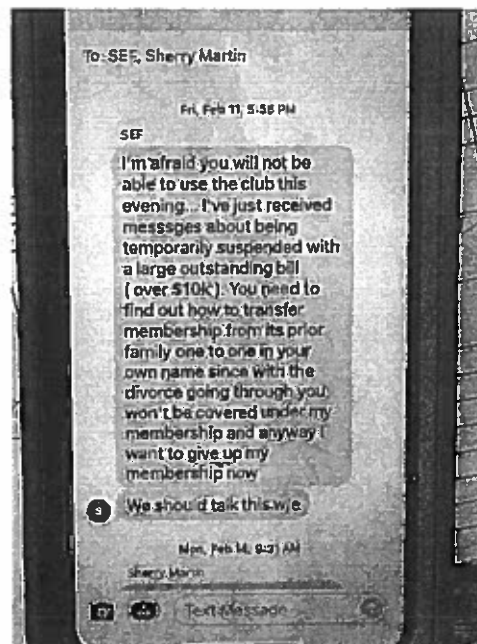
fiancée and her three daughters. All the while Valerie has no access to the marital assets and has been put on an allowance by Stephen of \$5,000 per month and \$5,000 per month of use of a credit card. Valerie is entitled to alimony *pendente lite* at a standard commensurate with the standard she enjoyed during the marriage

Stephen clearly has the ability to pay interim spousal support. It is of importance to note that the entry of the Order by the Supreme Court of the Virgin Islands has already resulted in Petitioner attempting to dump marital assets. The marital assets, in this case, are so vast that both parties can live well.

If Stephen attempts to claim he is cash poor, the Court should note that on March 5, 2022, Stephen held a private birthday party for himself at Hull Bay Hideaway, which is a villa that rents for \$10,000.00 per day. Upon information and belief, each invited guest was taken through a roped entry and given a special entry bracelet. The event was catered with extensive food stations, a live band played and by the end of the night many of the 118 guests were in the swimming pool, having imbibed margaritas all night long. This event easily cost \$30,000.00 and it was for Stephen's birthday. This event was held last week.

On February 11, 2022, Petitioner texted Respondent that Respondent would have to obtain her own membership in the Tuxedo Club. See February 11, 2022, text message from Stephen to Valerie attached as Exhibit "J". The Tuxedo Club is an exclusive private club to which the parties have belonged since they moved to Tuxedo Park in 1999. The present Club membership is held in the name of Petitioner; however, as the court is aware, the club membership is a marital asset, and Respondent is entitled to one-half the value.

Respondent utilizes the Tuxedo Club to play golf, squash and to swim, play tennis, and paddleball. Respondent dines at the Club and plays in tennis tournaments at the Club. Respondent uses the Club weekly, and more frequently in warm weather. Respondent has also served on the Gold Rackets Committee, the House Committee, and the Activities Committee. The adult children of their parties also use the Club. Petitioner no longer uses the Club because he is not living in Tuxedo Park, and issues of decorum prevent him from bringing his fiancée or mistress to the Club, where members know both Stephen and Valerie. Stephen's embarrassment does not mean that Stephen can cancel the membership and advise Respondent to obtain a membership in her own name, as Petitioner did on February 11, 2022, when he texted the following message to Respondent:



Valerie has contacted the administration at the Tuxedo Club and learned that many couples transfer the membership from one spouse to the other when they divorce so that the spouse remaining in Tuxedo Park does not have to reapply and pay a \$25,000.00 application fee in

addition to other upfront charges. Stephen could easily transfer the membership as part of the asset distribution and Stephen does not have the right to unilaterally dissipate the asset. Valerie does not have the \$25,000 Application fee or the funds to pay the monthly membership fees and dues, as well as other expenses.

Valerie requires access to her money and properties. Valerie has the right to live in her properties and Valerie has the right to travel to her properties. Valerie is requesting a Court Order allowing her to visit and live in the marital properties while the issues of equitable distribution of the marital wealth is negotiated. There is no law or reason why Valerie cannot do so.

Upon information and belief, Petitioner spends hundreds of thousands of dollars per year on behalf of his fiancée and her family, he spends hundreds of thousands of dollars per year on his mistress and his child, including purchasing or renting a villa for them in Paris, France and purchasing a vehicle and paying a driver to drive the mistress and the child where they want to go, as the mistress does not drive.

Petitioner continues to donate hundreds of thousands of dollars to charities and politicians; he has a fleet of vehicles all over the world, which include a luxurious Lincoln Navigator SUV in St. Thomas, a Porsche Cayenne and other vehicles in Ireland. Upon information and belief, Petitioner has drivers/chauffeurs in all regions to drive him wherever he wants to go, when he is not in the mood to drive himself or he needs to impress someone.

There is no final judgment in this matter as it relates to the equitable distribution of marital assets. A decree of divorce has been entered, but no discovery has commenced, and no resolution has been reached. It is likely that this matter is going to trial with experts who will testify as to assets and valuation. Petitioner has controlled Respondent during the pendency of the marriage, and he continues to do so even now, by refusing to give Respondent access to cash, and instead

doling out a monthly “allowance” and then deducting from her allowance, every charge that Respondent makes to purchase a salad or a tennis lesson at the Tuxedo Club.

Despite how Petitioner tries to portray himself to this Court, he is not a generous man. He is petty and vindictive when it comes to his family, which is ironic, because it was he who ruined his marriage with his affair and child. Respondent has no clue on what Petitioner is spending their money, except that Petitioner seems to be doing just fine traveling all over the world, spending millions of their dollars or Euros in building out an old Castle and otherwise living like the multi-millionaire he is.

In reading Petitioner’s Opposition to the Motion for Status Quo, it should be apparent to this Honorable Court that Petitioner is going to try to paint Respondent as a rich out-of-touch woman who lives extravagantly. This is untrue and while Respondent is rich on paper, Petitioner holds the money and literally holds the keys to two actual CASTLES, but forbids Respondent from using this marital property, under threat of arrest. As will be demonstrated at an evidentiary hearing, which Respondent requests, the court will be able to determine for itself how the parties are living and the style to which they have become accustomed.

Respondent does not have a college degree. Respondent is almost seventy years-old and she does not have the capacity for gainful employment, nor does she have any personal income-producing capability. When the parties first met at an art gallery show in Manhattan, Respondent was a model and she was engaged to someone else. Petitioner swept her off her feet and Respondent called off her engagement within a week of meeting Petitioner.

Respondent is an excellent conversationalist, she is well read and versed in the arts, and she did what was needed during the marriage to raise their two sons, to decorate the homes, to attend social events and charities and to hold herself out as the partner and wife of a Wall Street

titan and philanthropist. During their marriage, Respondent relied upon Petitioner to earn and invest their money, while Respondent took care of the at home and social events that are part and parcel of living this way.

Respondent needs a new vehicle. Her 18-year-old SUV sits in the shop waiting for parts. The parties own a fleet of vehicles all around the world, but Valerie has no other vehicle. Yes, the vehicle cost close to \$90,000 when the parties purchased it 18 years ago; however, Valerie cannot take the key out of the ignition, or the car will not start. Stephen has no problem being driven around in, or driving himself in Porsches, high-end luxury vehicles, and other vehicles Valerie is unaware of, as she is prohibited from staying in her properties.

Having established the legal foundation to Respondent's general entitlement to *pendente lite* spousal support/alimony at a standard commensurate with the standard she enjoyed during the marriage, the undersigned directs the Court's attention to Respondent's supporting Affidavit and Sworn Financial Statement attached as Exhibit "K" and other Exhibits concerning her financial needs as well as her ex-husband's financial abilities. Accordingly, Respondent requests an evidentiary hearing with respect to same.

B. Respondent has a need for an award of expert forensic accountant fees and costs *pendente lite* to put her on equal footing with Petitioner to adequately defend this matter

The Virgin Islands Supreme Court in *Slack v. Slack* stated that "Section 108 allows the trial court, during the pendency of the litigation, to award a party in need a sufficient amount of funds to litigate. *Slack v. Slack*, 71 V.I. 1139 (V.I. Supreme Court 2019). The Court has the discretion to grant Petitioner the right to retain professionals to assist her in finding and valuing her marital assets. If the Court does not provide financial relief to Respondent, Respondent cannot adequately assess the marital assets and the value and Petitioner has kept most of the assets and cash hidden

from Respondent throughout the marriage and during the pendency of the divorce. If the court denies Respondent her request to retain professionals as described above, the court itself will be unable to equitably distribute the marital assets, as it will have no way to know what assets exist, have been sold, have been hidden and what the value of those assets is, based on generally accepted accounting principles. This would be the true definition of inequity and would violate the law of equitable distribution of marital assets, which is the law in the US Virgin Islands.

Respondent's counsel has retained Mr. Gregory Cowhey of RSM US LLP. The assets and liabilities of the parties are not something that a regular accountant can surmise. Extensive knowledge of foreign assets, business valuations, currency exchanges, values, and valuing hard assets such as real property in Ireland, Switzerland, France, and elsewhere, require a team of experts. Mr. Cowhey has been involved in very high asset cases such as Trump #1 Divorce, Jeff Gordon (race car driver) divorce, Chris Evert (tennis)/Greg Norman (golfer) divorce as well as high asset divorces involving politicians and celebrities.

Mr. Cowhey characterizes this case as an "ultra- high net worth" case. Petitioner knows what assets belong to the parties because he is the person who created, purchased, sold, transferred and hid the assets. Respondent does not know what assets the parties hold.

Respondent has no experience in accounting or corporate management. Petitioner is crafty and brilliant in transferring and hiding assets to avoid judgment creditors and to otherwise protect the parties' wealth. Petitioner has demonstrated that he has no scruples concerning marital assets and he will do as he wants with no input from Respondent. For this reason, Respondent requires funds from the Petitioner, which are marital funds, to retain a forensic firm to trace, identify and value all marital assets.

One example of Stephen knowing when to hide assets occurred in or about 2011 or 2012 when a judgment creditor was attempting to execute on assets at their Tuxedo Park estate. In anticipation of the marshals showing up Stephen sent a truck and movers to remove the most valuable original artwork and antique furniture from the house. Stephen placed the inventory and artwork in a warehouse where it no longer remains.

Valerie was able to obtain a list of the inventory that Stephen removed as described immediately above, but years later, after the New York Court entered its status quo order referenced above, the warehouse personnel advised Valerie that they were no longer permitted to provide her with any more information about the assets. However, the warehouse person advised Valerie that the items taken above had been packed and shipped to London. Valerie believes that the artwork and furniture are worth millions of dollars. Valerie no longer knows where the furniture and artwork are located. These are marital assets that have disappeared.

The real property in Ireland also contains original art and expensive furniture, but Valerie has no way to learn what exactly is in each property, what furniture and art have been moved to hide it from creditors and from Valerie herself, and what artwork and furniture have been acquired since the date that Stephen locked Valerie out of both castles. In this matter, Valerie believes that there are marital assets in the United States, the United States Virgin Islands, the British Virgin Islands, Ireland, Switzerland, France, Bermuda, and United Kingdom. Valerie believes there may be assets elsewhere; however, Valerie does not have the ability to research and investigate these issues.

Once the assets are discovered, there is the issue of valuing those assets. Mr. Cowhey has acted as an expert in this regard. Mr. Cowhey is a partner in RSM and RSM is an accounting Firm that has more than 12,000 employees, and has offices and connections all over the world, including

Ireland. Experts will need to review Stephen's tax returns as he has not filed jointly with Valerie in years, and Valerie has not seen those returns.

Mr. Gregory Cowhey, Financial Investigations & Disputes Practice of RSM US LLP requires a 50% retainer in the amount of One Hundred and Twenty-Thousand dollars (\$120,000.00) to commence a forensic analysis and valuation of the marital assets, as more specifically set forth in Mr. Cowhey's Certification dated February 28, 2022, which is attached hereto and made part hereof as **Exhibit "L"**. Also attached to **Exhibit "M"** is a Summary of Mr. Cowhey's experience and list of Professional Affiliations and Credentials which includes:

- American Society of Appraisers
- Institute of Business Appraisers
- National Association of Certified Valuers and Analysts
- Association of Certified Fraud Examiners
- National Association of Forensic Economists

Additionally, Mr. Cowhey's six-page single-spaced Rule 26 Disclosure of all Expert Testimony is attached at **Exhibit "N"**. A close reading of Mr. Cowhey's Certification delineates the complexity of the marital assets in question. Only someone with Mr. Cowhey's skills and experience is qualified to search and value the marital assets in question.

Further although in his Certification, Mr. Cowhey states that to date he has found 33 marital assets, he states in paragraph 25 of his Certification that he is "not comfortable that [he has] discovered all the business, investment, real property, and personal property assets held by either Party that may be the subject of division in the matter at bar such that [he] could provide a fully informed estimate of the fees and costs that [he] expect[s] would be incurred to identify, analyze, value and/or divide inequitable distribution.

C. Respondent has a need for an award of attorney's fees and costs *pendente lite* to put her on equal footing with Petitioner to adequately defend this matter

The award of attorney's fees is also generally considered inherent in the power of divorce courts because of the equitable nature of their jurisdiction. *Poe v. Poe*, 409 F.R.2d 40, 7 V.I. 30, 1969 U.S. App. LEXIS 13167 (3d Cir. 1969). The Virgin Islands Supreme Court in *Slack v. Slack* stated that "Section 108 allows the trial court, during the pendency of the litigation, to award a party in need, a sufficient amount to funds to litigate. *Slack v. Slack*, 71 V.I. 1139 (V.I. Supreme Court 2019).

Pursuant to Virgin Islands law, Respondent is in need of a reasonable monthly amount for future attorney's fees and expenses to be incurred during the pendency of this matter upon the grounds Petitioner holds almost sole control over all marital assets, including cash.

Respondent has counsel in New York, but that counsel is not admitted to practice in the U.S. Virgin Islands, and that counsel is not familiar with Virgin Islands law. The undersigned has extensive experience with high asset, high net-worth, high conflict cases. Petitioner has employed the largest law Firm in the United Virgin Islands using money that is marital. Respondent is entitled to counsel of her choosing as well as experts. Respondent has the need for unfettered access to her marital wealth without tipping off Petitioner as to how the investigation of the assets is proceeding.

Respondent cannot afford to retain counsel on the \$5,000.00 per month "allowance" that Stephen is "giving" her. Respondent needs access to cash to live, pay counsel, and to retain experts. To date, Respondent has paid St. Thomas counsel \$21,805.00 Dollars. At the present time, she owes St. Thomas counsel \$19,800.00. Counsel's hourly fees are \$400/hour for office

work and \$500/hour for mediation, court conferences or hearings, which are in accordance and in line with attorneys in the Virgin Islands with similar experience. Counsel estimates that Valerie's attorney's fees and costs will exceed \$250,000.00.

CONCLUSION

This Honorable Court must recognize the inherent inequity with Stephen controlling all of the cash and properties and Valerie respectfully requests an Order requiring Stephen to turn over a sum certain so that Valerie can manage her own life, and further order Stephen to continue to pay to upkeep on all the marital assets, as set forth in the New York Status Quo Order, until such time as a final order and appeal is complete concerning the marital assets

Valerie seeks a lump sum payment of \$95,000.00 to purchase a vehicle. Stephen has advised Valerie that when he is in Ireland, he drives a Porsche Cayenne that the parties own. Valerie wants to purchase the same type of vehicle in New York. Valerie does not need a new vehicle and is willing to obtain one that is still under warranty.

Respondent requests that Petitioner be ordered to transfer Two Hundred Thousand Dollars (200,000.00) to Respondent within thirty (30) days, which amount shall be considered by this Court when ultimately determining the equitable distribution of the parties' marital assets. This money shall be used by Respondent to live her life and pay her personal expenses as set forth in her Financial Affidavit. Respondent will continue to use the American Express Platinum Card that Petitioner pays, up to \$5,000.00 per month.

Attached as **Exhibit "O"** are webpages from some of the organizations and Societies that Valerie belongs. During her marriage to Stephen, Valerie and Stephen attended societal events including dinner and benefits all over the world. They donated hundreds of thousands of dollars to charity every year, which, upon information and belief, Stephen continues to do. Some of these

organizations have monthly dues or memberships of less than \$100.00 per year, many do not. This is an issue that will be raised at trial as these organizations and Societies are where Valerie's peers and friends socialize. As Stephen continues to live as he chooses, so may Valerie. The parties clearly have the wealth to sustain both of them in the manner in which they have lived, although Valerie's standard of living has plummeted during the pendency of the Appeal as cited above.

Valerie is entitled to one-half of the marital assets and Stephen must be prohibited from distributing and dissipating the marital assets until such time as the Court enters a final Judgment related to the equitable distribution of marital assets, and Stephen's expected appeal, is decided.

Respondent seeks a one-time sum of One Hundred and Twenty-Thousand dollars (\$120,000.00) to pay the fifty percent (50%) retainer of Mr. Gregory Cowhey, Financial Investigations & Disputes Practice of RSM US LLP. Respondent seeks an order requiring Petitioner to pay any additional monies required by RSM US LLP, if and when those monies are requested. Mr. Cowhey estimates that the Firm's fees and costs are likely to total \$240,000.00 in full.

Respondent seeks a one-time sum of Two Hundred Thousand Dollars (\$200,000.00) as a retainer for Respondent's Virgin Islands Counsel and a further order that requires Petitioner to pay any additional monies required by Respondent's counsel, if and when those monies are requested. Counsel estimates that Valerie's attorney's fees and costs will exceed \$250,000.00. Respondent also requests that counsel for Petitioner submit Affidavits providing the cost of their fees to date, and their expected fees, and what is good for the goose is good for the gander. Upon information and belief, several of Petitioner's Virgin Islands counsel charge \$700/hour or more for court work. Respondent requests that she be granted access to her marital cash so that she can continue to retain counsel of her own choosing.

Respondent requests that Petitioner be ordered to pay the mortgages, including insurance and taxes and all Club fees and memberships as set forth in the Respondent's Financial Statement. Respondent requests that Petitioner continue to maintain all real estate wherever located, which includes all mortgages, notes, taxes, and maintenance. Respondent request that Petitioner be ordered not to sell, transfer, default, cancel, terminate, dispose of, dissipate or allow to expire, any marital assets, which shall be defined as any monies, real or personal, any Club memberships or any other asset obtained during the marriage of the parties.

In the alternative, if the Court is unwilling to order a lump sum payment to Respondent, Respondent seeks lump-sum payments to pay legal and forensic firms for the divorce and requests an increase in a monthly award of interim spousal support to \$25,000.00 per month in addition to the professional fees requested above, which amount shall be paid via check or bank transfer and which amount shall have no offsets.

Respondent requests that the Court consider the appointment of a Master to oversee the discovery in this matter. Finally, Respondent requests that Petitioner be ordered to file a Sworn Financial Statement complete with documents showing each account, the business licenses from each business, the corporate documents from each business, and the bank account statements from each business. This information is discoverable and will ultimately save the parties hundreds of thousands of dollars if Respondent is ordered to produce the information prior to the commencement of discovery.

Respectfully submitted,

Submitted: March 11, 2022

/s/ Julie German Evert, Esq.

Julie German Evert, Esq.
Law Offices of Julie Evert, PC
5043 Norre Gade, Suite 6
St. Thomas, U.S.V.I.
(340) 774-2830 telephone
julieevert555@gmail.com

/s/ Laura Castillo Nagi, Esq.

Laura Castillo Nagi, Esq.
Laura C. Nagi, PLLC.
Attorney & Counselor at Law
5043 Norre Gade, Suite 6
St. Thomas, U.S.V.I.
(340) 244-3432 telephone
laura@lauranagilaw.com

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT this Emergency Motion for Hearing on Interim Orders complies with the page or word provisions of V.I. Civ. Pro. Rule 6-1(e) and a true and exact copy of the foregoing document was served on the following, this 11 day of March 2022:

Andrew L. Capdeville, Esq.
P.O. Box 6576
St. Thomas, VI 00804

Henry L. Feuerzeig, Esq.
Justin K. Holcombe, Esq.
P.O. Box 756
St. Thomas, VI 00802

via: **C-track** | Mail | Fax | Hand Delivery | **Email**

/s/ Laura C. Nagi

Laura C. Nagi, Esq.

FILED

April 25, 2022 09:13 PM
ST-2016-DI-00166
TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)	
)	
Petitioner,	)	CASE NO. ST-2016-DI-00166
)	
vs.	)	ACTION FOR DIVORCE
)	
VALERIE EVANS-FREKE,)	
)	
Respondent.)	
_____)	

**OPPOSITION TO EMERGENCY MOTION FOR *PENDENTE LITE* SUPPORT,
EXPERT FORENSIC ACCOUNTANT FEES AND COSTS, AND ATTORNEY'S FEES
AND COSTS PENDENTE LITE**

Petitioner Stephen Evans-Freke ("Stephen"), through his undersigned counsel, respectfully submits this Opposition to Respondent Valerie Evans-Freke's ("Valerie") Emergency Motion for *Pendente Lite* Support, Expert Forensic Accountant Fees and Costs, and Attorney's Fees and Costs Pendente Lite (the "Emergency Motion"). In support, Stephen states:

I. INTRODUCTION

It is unfortunate that divorce often brings out the very worst in people. In attempting to poison this Court's impression of Stephen, and to continue to smear his good name, Valerie's Emergency Motion is largely devoted to telling a salacious, fictional story of their relationship. Obviously, the tale of a rich, chauvinistic, controlling husband with secret bank accounts is one that is designed to move the reader and frame the narrative with Stephen starring as the "villain." But, like a poorly sourced column in the *National Enquirer* or partisan "hit piece," the rhetoric bears very little resemblance to reality.

Stephen sincerely wishes that he did not have to go down the same path as Valerie, and until this point has studiously refrained from responding in kind to Valerie's calumnies. However, to prevent her inflammatory statements from being un rebutted, and thus accepted as the truth, he is left with no other option. As more fully explained below and supported with facts (not a hodgepodge of internet articles), Stephen has provided for his family despite all the obstacles Valerie put in his path. Among other things, this has involved coordinating specialized psychiatric treatment for his second son Roland, providing special needs educational support for his youngest son Tristan, and helping his eldest son with financing for his new startup business. Even now, Stephen's financial support remains critical for his children's daily sustenance and success. Moreover, his emotional support for them has remained unwavering including talking to all three of them frequently and often daily. By contrast, Valerie has minimal contact with her sons, habitually acts out in rage and has alienated herself from the family which, in the case of Roland, has resulted in a restraining order being issued forbidding her and Roland from having any communication between them.

Stephen hoped that this Court would never have to hear about these many ongoing problems. He did not want this divorce to turn into a scorched-earth battle. Indeed, at the outset of this case, Stephen wrote Valerie and urged her to consider an amicable resolution. See, e.g., Letter, attached as Exhibit 1. But, over the years, Valerie has fought him at every opportunity. This Court already has seen it firsthand. Most notably, she opposed this Court's jurisdiction, filed a separate action in New York, and blatantly ignored the mediation order entered by this Court on July 24, 2018. In adopting this strategy, Valerie already has needlessly run up eye-watering legal fees and expenses of both parties. Meanwhile, Stephen has continued to provide an astonishing

amount of financial support to Valerie – allowing her to live a carefree lifestyle and reside in one of the finest and largest homes in Tuxedo Park.

Stephen’s response below addresses the many points raised in Valerie’s Emergency Motion and establishes that the relief requested is grossly inappropriate. However, it also is equally important for this Court to consider a better option – mediation. This Court’s previous decision ordering early mediation was correct and is the best course of action at this stage. Mediation has the potential to avoid the parties’ becoming increasingly embittered and entrenched in their positions after engaging in additional rounds of “saber rattling.” Accordingly, for these and the other reasons below, this Court should deny Valerie’s Emergency Motion and issue a renewed mediation order.

II. BACKGROUND

Stephen is not a “ultra-high net worth” person living a leisurely life. Despite being seventy (70) years old, Stephen continues to work long hours in a stressful, time-consuming job to support his family and other dependents. Even during the height of the Covid pandemic, he maintained an intense work schedule involving multiple zoom and audio conference calls each day, and now returning to heavy business travel itineraries. Providing support for all the people dependent on him is often not easy for him because his income consists of regular monthly distributions from his private equity investment firm Auen that do not cover his monthly obligations. This is supplemented by unpredictable transaction fees and/or capital gains realizations to cover the shortfalls. Further, his business ventures always involve a significant amount of financial risk. In the best case, Stephen receives highly inconsistent income from month-to-month. But, in tough times, he ends up with losses and overall deficits that must be covered by some means.

To put Stephen's income in context, as Managing General Partner of Auvén Therapeutics Management LP ("Auvén"), Stephen currently earns \$70,000 (pre-tax) per month in distributions. See Affidavit of Stephen Evans-Freke dated April 25, 2022, attached as **Exhibit 2**. Although these distributions are the most stable part of his income, they are set to expire when the fund reaches its end-of-life, currently scheduled for June 30, 2022, (but this may be extended to the end of 2023). Aside from these monthly distributions and some pension income, Stephen only earns additional money when (and if) he can harvest capital gains from investments and/or earn transaction fees. This does not happen with any sort of predictability because, by definition, private equity investments are illiquid.¹ They are not something that can be sold on a whim nor can any random person step into Stephen's shoes. Additionally, the biotech sector has been severely impacted by recent negative market conditions and by COVID, with the XBI index of small and mid-cap biotechnology companies having fallen dramatically over the last 18 months with many stocks losing upward of 75 percent of their value.² Moreover, because of the specialized nature of private equity, banks will not provide credit against illiquid investments that Stephen could use for additional liquidity. This has directly impacted Stephen's cashflow and available funds. For example, Stephen's available (liquid) cash was \$67,937.43 as of March 31,

¹ Private equity investments are long-term, illiquid, and do not provide predictable income streams like a salary or distributions. See, e.g., 12 Blue Sky Law § 3:98 ("The private equity fund concentrates their investments in unregistered securities that are usually illiquid. Because the investments are illiquid, unregistered securities, the private equity funds generally commit to long-term investments. This fixed term and illiquid nature of private equity fund investments means that the investor has little, if any chance to redeem his investment. Further, there is usually no secondary market for these partnership interests"); see also U.S. Securities and Exchange Commission website, <https://www.investor.gov/introduction-investing/investing-basics/investment-products/private-investment-funds/private-equity> (private equity "is often illiquid and it may be necessary to hold an investment in a private equity fund for several years before any return is realized").

² See, e.g., Josh Nathan-Kazis, "Why Are Biotech Stocks Underperforming? The News From Companies Has Been Mostly Bad," Barron's (March 21, 2022), attached as **Exhibit 3**; Morgan Stanley, "ADC Recent Trading Has Correlated Closing with the Broader Biotech Index," attached as **Exhibit 4**.

2022. Id. at ¶17. He does not have any other free money or liquid assets – not here, in Ireland, or elsewhere. This is easily established by reviewing his financial statements and tax returns.

Given the foregoing situation, the reality is that Stephen simply does not have the available funds to pay for a \$95,000 Porsche, a \$120,000 retainer for a high-flying international forensic financial expert, or a \$200,000 retainer for attorneys' fees. Not only does he not have the money available currently to cover such absurd outlays, nor the means to conjure them up out of thin air, if he did have that liquidity right now, he has other mouths to feed in addition to Valerie who also would be entitled to his support.

Over the last 14 years since he separated from Valerie, Stephen's financial support for her has often taken more than half of his regular distributions from Auen (from 2011 to 2021 amounting to \$5.8 million) and this has greatly strained his finances. That is because Valerie insists on living alone in a 24,000 sq ft. period residence with a 5,000 sq ft carriage house on ~26 acres of land in the gated community of Tuxedo Park that has legendary status as a bastion of privilege. A few photographs of the mansion, attached as **Exhibit 5**, provide some background. As this Court will recall from other filings, the costs of maintaining this residence and paying for utilities are as impressive as the house itself. For example, the property taxes alone are more than \$100,000 per year. Yet, it appears that Valerie wants to pretend that Stephen's payment for this giant mansion with a house manager should not even be considered as support. In other words, she expects to live in the highest level of luxury that, regardless of one's available resources, must be provided.

This type of thinking has been a constant refrain during their marriage. Valerie refuses to work and has not worked one day since her marriage to Stephen in 1990 – not even taking unpaid charity work despite always having ample domestic help in the house. While the children were

very young in California, a nanny woke the children in the mornings, gave them their breakfast, schooled them, fed them, took them for walks, gave them their supper before putting them to bed at night – all this in addition to having a house manager and daily cleaning staff. Even when it came to managing the household or supporting Stephen, the responsibility for hiring and managing help has always fallen entirely on Stephen. Indeed, before, and even after separating from her in 2008, Valerie continued to rely on Stephen to take care of everything while providing no emotional or practical support. She has not lifted a finger to help Stephen and cares only about being part of a rich, non-diverse, “exclusive” gated community in Tuxedo Park and attending high society functions in New York City. Indeed, her steadfast resistance to leaving the Tuxedo Park home and monolithic neighborhood is only because she is afraid of losing her social status. “Status” and image should not guide the division of assets – particularly since the home requires very high ongoing costs. As this Court knows from other cases, following divorce, social status often changes unless you are a Bill Gates or Jeff Bezos. In a divorce proceeding, each party has an obligation to be reasonable when it comes to individually owned assets and the division of marital assets.

A. THE BEGINNING OF THEIR RELATIONSHIP

As Valerie acknowledges in her motion, Stephen was a very successful businessman before they ever met. From 1976 to 1990, Stephen worked at PaineWebber and its investment banking branch, Blyth Eastman PaineWebber. In 1984, at the age of 32, he became President of PaineWebber Development and was paid very well for his work. This type of success was not easy to achieve (particularly in the competitive environment of Wall Street). It required a lot of hard work, personal sacrifice, and determination. Even today, many people cannot handle this type of stress and find themselves “burning out” after a few years.

When Stephen met Valerie, she was working as a model for a small couture house and in a live-in relationship with a wealthy art gallery owner. After meeting, they started dating and, within a few weeks, Valerie moved in with Stephen. Valerie did not come from a privileged background, and in fact grew up in very modest circumstances in Connecticut. She already had been through a contentious divorce from the son of a wealthy local family some years previously. However, Valerie's past never was viewed negatively by Stephen. He cared about her as a person without any regard for her background. Moreover, Stephen did not have antiquated views about what Valerie should or should not do. Throughout the marriage and after Stephen separated from her, Valerie had hired help and was not burdened with housework or chores. Although she easily could have worked or volunteered in her free time, she opted to live with a level of freedom, luxury, and leisure time for the last few decades.

Nonetheless, the couple's problems came early in their marriage. After their move to California in 1990, Valerie habitually blew up into uncontrollable rages evening after evening. It became so bad that Stephen came home after work each evening to feel that he was "walking on eggshells" to avoid triggering her unrelenting anger, which once set off would quickly and unstoppably spiral into full-on rages in which vitriolic abuse would be hurled and various things thrown. Stephen became increasingly worried during this time that Valerie's emotional instability might eventually impact their children.³ This drastic change also came as a complete shock because Valerie did not display these traits when they were dating. But, as Stephen later learned, Valerie's first marriage ended for this very reason.

³ Eventually, it did impact their children. Valerie alludes to the situation on page 10 of the Emergency Motion when she refers to one of their sons suffering from "severe emotional problems." However, she fails to mention that she is forbidden by court order from being in the same room as her son. Also, Stephen has been supporting the son, talking with him regularly, and making sure he receives specialized treatment.

Nonetheless, Stephen stood by Valerie and tried to preserve the family. He also helped her get through a very tough situation when she was diagnosed with pre-cancerous cervical issues in 1998. Indeed, Stephen personally made sure that she was treated by one of the national leaders in women's oncology at Cedars-Sinai Medical Center in Los Angeles. This treatment led to Valerie successfully being cured. Unfortunately, despite overcoming this challenge, things did not get better in their relationship.

B. NEW YORK

(1) The Tuxedo Park Home

In 1999, the Evans-Freke family moved from California to New York. At that time, Stephen had recently sold SUGEN (a biotech company) and was able to focus on venture investments. The family also was in a good financial position – a key reason for why they purchased the Tuxedo Park home. However, this ultimately proved to be a very bad financial decision. The house was originally built in the 1890s but had not been lived in for several decades and required external and internal restoration to make it safe and habitable.

Stephen hired a local contractor to undertake the necessary renovations based on the contractor's estimate of the work costing about \$3-3.5mm over two years. While the work was underway, the family lived in rental homes for three (3) years. After years of renovation work with costs having already overrun the original budget by 100 percent with no end in sight, Stephen retained an independent consultant to assess the project's status. The assessment confirmed his fears. The contractor's work to date had been extremely poor – even “amateurish” - and there was considerable doubt as to his capacity to complete the project in the foreseeable future. So, Stephen fired the contractor and was forced to look for another qualified contractor to renovate the

house. This led to litigation with the fired contractor and a lot of expense in finishing the work. Ultimately, the project cost over \$12 million (much of which was financed through bank loans).⁴

At one time, the home value would have supported the \$12 million expense. However, in 2007, Stephen considered a severe market downturn to be possible, and in order to reduce their overall indebtedness he wanted to sell their summer home in Maine, which by then they were using less and less, for a then-estimated price of \$12-14 million. This led to a disagreement because Valerie refused point blank to agree to its sale. Consequently, in the aftermath of the 2008 financial crash when luxury property values collapsed, the family was left in a dire financial position. They had a lot of property-related debt, and their assets and income were considerably lower than in previous years. Stephen was only able to get through this crisis by negotiating better terms on their bank loans and throwing himself into building up his new investment firm, Auen. Even then, he was barely able to prevent the family from having a serious financial crisis at that time.

Unfortunately, despite a recent rebound in Tuxedo home prices, it is unlikely that the Tuxedo house could ever be sold for \$12 million – particularly since most homes in that area sell for a fraction of this amount. The mansion also costs a fortune to maintain, heat/cool, and insure. Yet, despite the impracticality of a single 67-year-old individual living alone in a giant historic mansion on such a large property, Valerie has dug in her heels and vigorously resisted any suggestion of selling the estate to move to a more practicable home for a single person.

(2) Marital Problems

⁴ The financing was necessary because Stephen's income was greatly impacted during the early 2000s because of a series of destabilizing events that impacted the stock market and private equity. The first was the telecom and "dot.com" busts of 2000-2001, which hurt all sectors of the stock market. The second was the terrorist attack on September 11, 2001.

Stephen and Valerie's marital problems did not end when the family moved to New York and settled into their home. Over time, Valerie developed an insatiable appetite for maintaining the appearance of wealth. Her filing in this Court – mentioning random, irrelevant facts about flying on the Concorde and pictures with members of the Royal Family – is very telling because it provides a glimpse into how Valerie viewed their married life. Valerie cared most about fitting into high society. See, e.g., Patrick McMullan (assorted pictures of Valerie at events), available at <https://www.patrickmcmullan.com/search/?person=5b3ef5109f9290667651b133>. That meant buying the fanciest clothes and being seen with the “right” people.

Valerie's self-indulgent lifestyle and emotional instability quickly began to impact the entire family. Most concerning was Valerie's shocking inattention to their two boys. During their childhood in New York, the boys would routinely arrive very late at their nearby school without having eaten a proper breakfast. After school when they were taking the school bus, more often than not they would arrive home to an empty house because Valerie would be away shopping, returning late with her RangeRover filled with unneeded purchases. On days when Valerie was supposed to pick them up from school, she would invariably be very late, with the last teacher waiting on the doorsteps with the boys. Most days she would not arrive home until 8.00 p.m. or later, so the children would not eat dinner until very late at night. More often than not their homework was unsupervised and only attended to when they should have already been in bed.

Throughout this period, Stephen often worked long hours to provide for the family and be a supportive husband and father. Despite the many issues between them, he appreciated (and still does) Valerie's role as the mother of their two boys.⁵ Nonetheless, almost every evening, Valerie's

⁵ Although it may seem inconsistent to make this comment while also describing the serious problems that occurred during their marriage, Stephen never has wavered on this point. Valerie always will be the mother of two of his children. Further, Stephen has repeatedly stated that he wants to provide a reasonable amount of support for Valerie following their divorce and make sure she has a comfortable life.

rages would start sooner or later, and the abuse would be unleashed at him and the boys. Valerie had a well-honed instinct for the vulnerabilities of those closest to her, and once enraged would always go for the jugular. Over time, Stephen and the boys viewed her as an emotional terrorist - throwing whatever verbal grenade she thought would wound the most. So, when their eldest son turned fourteen (14), Stephen made sure he was able to attend a boarding school to get him away from the toxic home environment created by Valerie. However, since his younger son was not yet old enough for boarding school, he was left alone to deal with Valerie's rage. This proved to be very detrimental to his development and led to him getting into trouble. Eventually both children were able to leave and attend a Swiss international school. But, for the younger son, the problems with Valerie only became worse over time. As previously mentioned, Valerie and this son can no longer be in the same room together.

(3) The "Breaking Point" That Led to Stephen's Decision to Separate From Valerie

In 2007, after years of discord and utter chaos, Valerie's emotional behavior became even more extreme. For example, on two occasions that year, she tried to jump out of Stephen's car while he was driving. This bizarre, unexpected behavior frightened Stephen so badly that he felt he could not drive her anywhere unless others were in the car. Although he tried to help her, he felt that the situation was spiraling out of control.

Over the course of 2007, these types of reactions from Valerie became increasingly unpredictable. Most notable was an incident that occurred after the couple attended a New Years' Eve party at the end of 2007 and danced together for much of the evening. They had a friend staying with them, and upon returning home Stephen spent a few minutes talking with him while Valerie went into an upstairs bathroom. After a while they heard screams. When they rushed up to check, they discovered that Valerie had cut her wrists and was trying to cut more. Stephen and

their friend held her down, bound her wounds, and called for emergency assistance. The police and an ambulance arrived; Valerie was forcibly restrained on a gurney to be carried out of the house screaming wildly and was kept on suicide watch at the closest psychiatric unit until deemed safe to be brought home.

These incidents put Stephen in an incredibly difficult position. Although he wanted to help Valerie, Stephen knew that he had to leave because he could no longer live with the emotional rollercoaster and stress. So, when he eventually told Valerie that he felt it was necessary to separate from her, Valerie asked him not to divorce her because she did not have a real family of her own and without being a part of the Evans-Freke family she had nothing. Stephen promised that he would not divorce her any time soon and would continue to provide financial support.

C. POST-SEPARATION

Following their separation in 2008, Stephen moved to the Virgin Islands and established Auen initially, and other businesses subsequently. As is industry practice in the world of private equity funds, the General Partner capital contribution to the Auen partnership was 1 percent of the capital raised from Limited Partners. In Auen's case \$228 million was raised so the General Partner contribution was \$2.28 million, split equally between Stephen and his Co-General Partner. These contributions were funded with personal Notes (also customary in the private equity world), which in time were paid off from management and transaction fees. Hence, no 'marital assets' were used in the establishment of Auen.

From the outset, Stephen believed that the Virgin Islands would be an ideal location for his new ventures, and this proved to be true over time. However, during 2008 to 2011, Stephen had intense difficulty raising the capital for Auen during a terrible financial market environment after the 2008 market crash.

As Valerie mentions (of course, in a negative context), Stephen has been fortunate to work with and befriend many Virgin Islanders. These relationships and their understanding of the islands' culture benefitted him in many ways – from meeting his fiancée (a longtime USVI resident who has been deeply involved in the community here for nearly 20 years) to becoming an investor in the Water Island Development Company and founding AeroMD as the only USVI-based air ambulance company. As a result, Stephen's life in the Virgin Islands has been far different than it was in New York.

Today, Stephen lives in a much smaller home in St Thomas than the Tuxedo Park residence. He also is engaged to a lady he met in St. Thomas 11 years ago and is very much in love with her. He spends much of his social time with a diverse spectrum of friends in this community.⁶ He drives a 6-year-old SUV and owns an 18 year old powerboat called "Celtic Fire" that has not been sold to date due to engine problems.⁷ The only outside help that he personally employs in St. Thomas are a cleaning person for half a day twice per week and a gardener once a week. In addition to Valerie, he also supports his two adult children, is supporting Yorick's new business venture and has been covering the high medical expenses incurred by his son Roland's psychotic incidents and subsequent treatment at different institutions.

He also supports his youngest son Tristan (now 12), who was born as the result of a romantic relationship with a French artist and perfumer in St Thomas in 2009 - nearly two years after leaving Valerie. Tristan has Asperger's syndrome and now lives with his mother in Paris. There, he needs round the clock care from his mother, attends a part-time small charter school for

⁶ In fact, the combined square footage of his properties in Ireland and rental home in St. Thomas are smaller than Tuxedo Park gargantuan mansion.

⁷ The boat has not been sold. It has a bad outboard motor and, therefore, needs repairs before it can be used or sold. Nonetheless, it is important to note that this boat should not even be considered a marital asset since it was bought in 2009 with a personal loan of \$200,000 from a friend.

children with special needs and has daily private tutoring for autistic children, all which Stephen is supporting.

In Ireland, Stephen supports a payroll of about a dozen employees, most of whom have been employed for more than 15 years as highly skilled craftsmen devoted to the painstaking restoration of his ancestral Castle Freke home. He also pays Jerzy Grimsky, Valerie's house manager in Tuxedo, and provides health insurance for a couple in California who worked for him as his ranch managers in the 1990s.

By comparison, given her obsession with acquiring designer clothing and spending time at an elite "members only" country club, it is almost comical that Valerie has portrayed herself as a victim and referred to Stephen as a character from "Downton Abbey" who hides money, lives in a castle, and relies on a cadre of paid staff. Of course, this imaginative story is nothing more than unadulterated fiction. See, e.g., Exhibit 2 (Affidavit of Stephen Evans-Freke) (disclosing assets).

While Stephen's family heritage is prestigious within Ireland, he did not achieve financial success because of it. Moreover, despite being the son of a 'Lord', he eschews the idea of "classes" and is very much against inequity. This is shown by his day-to-day life and interactions with others. Stephen is not sitting on his laurels while people wait on him. He continues to work tirelessly in a very demanding profession where people depend on him to make decisions that will impact them financially.

Even Valerie's Emergency Motion shows the contradiction in her argument – seemingly scoffing at the idea of Stephen inviting Virgin Islanders to visit Ireland. Unlike the country club and high society events that Valerie frequents, there are no "class-based" litmus tests for people with whom he associates. Stephen's friendships include a diverse group of people – many of whom were not born in the same circumstances. Ironically, Valerie's reference to Stephen's recent

birthday party is a great example. Last month, Stephen's fiancée (a successful local realtor) paid entirely for a birthday party to celebrate Stephen's 70th birthday, and invited their many friends from the Virgin Islands community.⁸

In stark contrast to Stephen, Valerie's life remains firmly ensconced in the bubble of privilege and "high society." She continues to care deeply about impressing other people and making an appearance in the right places. As a result, Valerie still spends her time shopping, enjoying leisure time, and socializing. For example, when Stephen last visited the Tuxedo Park home, in addition to every available closet bursting with clothes, Valerie had amassed forty-eight (48) full clothing racks with extension bars filled with couture clothing. She has entire rooms (floor to ceiling) devoted to storing her collection of designer clothes, shoes, and accessories. Stephen suspects that her collection has only grown over time, and this is one reason why she does not want to move. In fact, with Valerie stating that she requires a \$2,000 per month clothing budget going forward, a very reasonable question would appear to be why? There should be no dispute that Valerie has been well-supported, and her current level of support is more than satisfactory.

ARGUMENT

I. VALERIE HAS NOT DEMONSTRATED A NEED FOR AN AWARD OF *PENDENTE LITE* SPOUSAL SUPPORT.

Despite her lengthy narrative, Valerie has not provided any evidence that she needs court-ordered *pendente lite* support to maintain her necessary living expenses. Since 2008, the parties have lived separately, and Valerie has received ongoing financial support from Stephen. **That has not changed.** All her household expenses, including insurance, heating oil and utilities, servicing, repair or replacement of house systems, automobile insurance, maintenance and repairs, and

⁸ Valerie's counsel's mischaracterization of Stephen paying for his birthday party was purposefully misleading. It was well-known by all attendees that Stephen's fiancée had organized and paid for the party.

unreimbursed health costs and veterinary bills for her pets have been paid by Stephen. He also has paid for the preparation of Valerie's tax returns and covered her income tax payments. In addition to his support, Stephen also provides Valerie with \$10,000 per month for her use on discretionary personal expenses. In total, Stephen's support has amounted to hundreds of thousands of dollars ever year. Nonetheless, given her recent claim that she "only" receives \$10,000 every month, it is possible that Valerie might (albeit disingenuously) argue that the housing support should not even be considered. Obviously, this argument overlooks the fact that only Valerie uses the Tuxedo Park home and Stephen's mortgage payments and expenses are for a home that is worth less than the outstanding debt (which, objectively, does not preserve marital assets). See, e.g., In re Marriage of Garcia, 224 Cal. App. 3d 885, 894 (Ct. App. 1990) ("the continuing order for mortgage payments was intended as spousal support"); Mercado v. Mercado, 320 So. 3d 868, 869 (Fla. Dist. Ct. App. 2021) ("Spousal support may include the payor's court-ordered obligation to bear exclusive responsibility for the mortgage payments on the former marital home").

As a result of Stephen's support, Valerie enjoys the sole use of the Tuxedo Park mansion and services from a house manager.⁹ Without having to pay for the home, taxes, and maintenance, Valerie also has a lot of freedom. As she openly admits, her time is spent on leisure activities inside her exclusive gated community. So, where is the actual "need" or "necessary living expense" that is not being met? If anything, the only identified need in the Emergency Motion is a desire to have more luxury while Stephen continues to work.¹⁰ Certainly, a new \$95,000 vehicle is not "needed," and if that is really the case it could easily be acquired through financing, which

⁹ Stephen never has said that he wants the house manager to retire. Indeed, Valerie was the one who complained and mentioned that he may need to retire.

¹⁰ Valerie uses the politically charged term, "inequity," multiple times in her brief. Obviously, a nonworking person living in a mansion and receiving \$120,000 (after tax) is not a disadvantaged person who might long for some sort of "equity."

she could choose to fund from her generous monthly tax-free spending money without the need for a lump sum payment.

As the Supreme Court of the Virgin Islands held in Slack v. Slack, 71 V.I. 1139, 1144 (2019), “[a] party seeking an award of alimony or *pendente lite* support bears the burden of proving all elements of his or her claim, including, as part of demonstrating the need for alimony, establishing his or her necessary living expenses.” See also Slack v. Slack, 69 V.I. 567, 581 (2018) (“the determination to award *pendente lite* support is generally more concerned with the immediate, present financial circumstances of the parties”). Additionally, “the trial court is *not* to consider marital fault in granting alimony but must instead consider only the resources of the person giving such support and the party receiving it.” Martin v. Martin, 58 V.I. 620, 628 (2013) (*emphasis in original*).

In this case, Stephen has established what resources are available to himself and to Valerie. With respect to Stephen, he does not have a predictable income other than his Auen distributions and some pensions. See generally Exhibit 3 (Affidavit of Stephen Evans-Freke). He also does not have savings or credit that he can use to supplement his liquidity. Id. Nonetheless, to date, Valerie’s support already takes close to one-half of his regular monthly distributions. Id. So, there is absolutely no need to require him to pay more. If anything, the current arrangement is inappropriately generous and unsustainable, since Stephen is providing a mega-mansion, house manager, and after-tax spending money for someone who has not done anything for decades to contribute the family’s well-being. Moreover, Stephen also continues to provide financial support to many other people including his two sons with Valerie and his 12-year-old son..¹¹

¹¹ Stephen also talks with his sons multiple times every week. Maintaining these relationships are important to him and he has made sure his children know that they can count on his help even when they have problems.

Valerie also has money and assets of her own – including some very substantial assets that were not disclosed in her financial statement. Those undisclosed assets include 52,949 Preferred Shares in CIBUS Global (recently worth \$2.50 per share), a number of pieces of fine antique jewelry gifted to her by Stephen, and a valuable collection of contemporary art. Her personal art collection consists of pieces acquired from iconic artists of the 1980s when she was the girlfriend of a top modern art dealer in New York. Upon information and belief, her most valuable pieces include two signed original works by Keith Haring. Haring’s works have sold for very high prices – with one of his pieces fetching over \$6.5 million at an auction in 2017. See, e.g., <https://www.widewalls.ch/magazine/keith-haring-artwork/untitled-1985>. In addition, as she disclosed in her financial statement, Valerie has \$176,324.76 in insurance funds that have not been used. Meanwhile, despite having less available liquid assets than Valerie, Stephen has been paying for the Tuxedo Park home maintenance.

As the Supreme Court of the Virgin Islands has made clear, a *pendente lite* spousal support order is based on needs and necessities – not wants. In this case, the “present financial circumstances” of the parties does not even come close to justifying an order requiring Stephen to pay a \$200,000 attorneys’ fees retainer, a \$120,000 forensic accountant retainer, and a \$95,000 payment for a new car. For one thing, Stephen does not have the money and is unable to make the payment.

Of course, Valerie is likely to argue that Stephen should just sell something to get money. However, as previously noted, one of the disadvantages of private equity investments is the lack of liquidity. There is simply no established market for these long-term illiquid assets and a forced sale (if one could be made) would be at “fire sale” prices that represent a fraction of their value. In contrast, Valerie could easily use the \$176,324.76 insurance proceeds and her other valuable

assets if she wanted to live more luxuriously than she already does. Moreover, it is not the role of this Court to order spousal support that results in a substantial increase in a spouse's living situation.

Accordingly, as Valerie has not provided sufficient evidence of her necessary living expenses or available financial resources, this Court should deny her motion.

II. V.I. CODE ANN. TIT. 16, §108 DOES NOT ALLOW FOR AN AWARD OF PENDENTE LITE SUPPORT OR OTHER FUNDING AFTER A JUDGMENT IS ENTERED.

From the very beginning, Valerie vigorously opposed this Court's jurisdiction. This resulted in years of expensive litigation and an appeal. However, until now, Valerie has not previously moved for this Court to award "necessary" spousal support or attorney's fees— despite these issues being squarely raised in the context of this Court's considering a stay pending appeal. Indeed, in his request for a stay, Stephen specifically stated that he would continue to support Valerie during the pendency of the appeal (which he did). In response, Valerie relied on a "bare claim of harm resulting from a delayed divorce settlement" and did not ever argue that her needs would be unmet if not for court-ordered spousal support. See, e.g., Order dated July 23, 2019 (the "Stay Order") at p. 6, attached as Exhibit 6. Accordingly, in its Stay Order (which was not overturned and/or otherwise mentioned in the Supreme Court's Memorandum Opinion), this Court found that Stephen's sworn intention to support Valerie was adequate to preserve the status quo. Id. Valerie did not appeal or request reconsideration of that order.

The language of 16 V.I.C. §108, which is the basis for Valerie's motion, is very clear. It states that an interlocutory order may only be entered "[a]fter the commencement of an action, and before a judgment therein . . ." Even then, this type of order is not guaranteed. It may only be granted if this Court, in its discretion, believes it is needed. In this case, Valerie could

have asked for *pendente lite* support in the context of challenging Stephen's request for a stay pending appeal or even earlier. However, until now (after retaining new counsel), she never argued that Stephen's generous financial support was insufficient. The only reason that Valerie now seeks additional support is to pressure and gain leverage over Stephen because she knows that he lacks the available cash to make the lump sum payments she seeks.

In this case, a judgment already has been entered and the parties are divorced. Therefore, based on the plain language of the statute, this Court should deny Valerie's motion and find that Stephen's ongoing support is sufficient.

III. STEPHEN WOULD SUFFER IRREPARABLE HARM FROM AN ORDER PROHIBITING ANY SALE OR TRANSFER OF ASSETS.

There is no reason to effectively freeze all of Stephen's assets. As this Court correctly recognized in its Stay Order, "[t]he threat of loss or interference with Husband's right to control his business implicates a strong showing of irreparable harm, because the right to control a business 'has intrinsic value' that cannot be compensated by money damages." See Stay Order at p. 5. That same harm would result now – particularly since Valerie incorrectly claims a right to his individually owned assets.

While Stephen mainly owns illiquid assets, those assets are not constant fixtures that can be easily "frozen" in the far-reaching manner that Valerie suggests. For example, sometimes a property might require repairs which, in turn, necessitates transferring money (to the extent it is available) to pay for the repair bills. Similarly, a business may need to respond to changing market conditions and hire more employees or sell shares, equipment, or fixed assets. In other words, it is not realistic for Stephen to simply keep everything stagnant. If he was required to do that, it would have very significant consequence – namely: (1) preventing him from managing his business and holdings, and; (2) blocking his ability to generate transaction fees or liquidity

realizations. In short, it would have the practical effect of preventing him from earning a living as a private equity manager. Accordingly, his ability to maintain his support for all his dependants, including Valerie, would be impaired..

There is absolutely no danger that Stephen will alienate marital assets or, for that matter, assets that he owns individually. As is shown from his financial statement attached to his affidavit, Stephen's most valuable assets are his interests in Auven and other non-marketable securities. His other assets are in the form of real property or businesses. Accordingly, this is not a situation where he could hide his wealth or go on a spending spree. Indeed, over the many years that this case has been pending, Stephen has not dissipated assets or otherwise done anything that would suggest he is acting inappropriately.

For these reasons, this Court should deny the Emergency Motion and find that Valerie's overly broad request to "freeze" all assets is unnecessary.

IV. THIS COURT SHOULD DENY VALERIE'S REQUEST TO HIRE A FORENSIC ACCOUNTANT.

(1) THERE IS NO EVIDENCE THAT STEPHEN HAS HIDDEN ASSETS.

At this stage, the parties have not conducted discovery or even begun the process of discussing assets and liability. Therefore, Valerie's sudden, unexpected demand for a forensic accountant is based only on pure speculation and her unfounded assumption that this is a "very high asset case" like "Trump #1 Divorce, Jeff Gordon (race car driver)," See Emergency Motion at p. 20. There is no evidence that Stephen has hidden or prevented Valerie from learning about their marital assets. Indeed, while they were married, she was privy to his tax returns and had some general knowledge of Stephen's annual income.

Although Stephen has had business success, he is not a billionaire nor is he even one of the wealthiest private equity managers. This can be established by reviewing objective information

like Stephen's tax returns, financial statements, inventories, and property records – all of which he is willing to provide. However, relying on Valerie's colloquial story about Stephen moving artwork and antique furniture hardly justifies employing a very expensive "team of experts" to track down assets. Nonetheless, to the extent it matters in this context, the artwork and furniture referenced in her motion were moved to the United Kingdom because of the restoration expertise available in that country, and an inventory and independent valuation of those pieces will be forthcoming. Of course, to the extent that Valerie has other questions during discovery, they can be addressed in due course.

(2) VALERIE HAS NOT FOLLOWED THE ESTABLISHED PROCEDURE FOR DISCLOSING EXPERT TESTIMONY.

Procedural rules are designed to keep order and prevent parties from using surprise litigation tactics. That is why it is so unusual to see Valerie's request. If she wanted to hire an expert, Valerie should have followed this Court's discovery procedures before filing a motion. For example, pursuant to V.I. R. CIV. P. 26(a)(2), "a party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Virgin Islands Rule of Evidence 702, 703, 704 or 705."¹² Furthermore, "a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f)."

Simply stated, Valerie has not followed these procedures and is trying to lump "spousal support" together with retention of a very specific type of expert witness. This is not fair or appropriate because the parties have not even conferred pursuant to Rule 26(f). Accordingly, this Court should deny Valerie's request.

(3) A FORENSIC ACCOUNTING EXPERT IS NOT APPROPRIATE FOR A CASE WHERE ALL MARITAL ASSETS WILL BE FULLY DISCLOSED.

¹² Based on V.I.R.Fam.P. 1, "[w]here no Rule is included addressing a procedure, provisions of the Virgin Islands Rules of Civil Procedure and/or the Virgin Islands Rules of Criminal Procedure may be used, adapted as necessary, and the court may specify a procedure."

Although an expert may be needed by the parties at some point, that does not mean that Valerie should hire any type of expert at any cost. It is important to keep in mind that there is absolutely no evidence suggesting that Stephen has hidden assets and/or that a “forensic” accountant is even needed. Yet, the proposed expert, Mr. Cowhey, plans to spend more than eight hundred (800) hours reviewing “business, investment, real property and personal property assets held by either Party.”¹³ See Emergency Motion at Exhibit L, p. 9. He also charges \$600 per hour for his services – a rate higher than any attorney working on this case. Id. However, there is no evidence that this hourly rate (even at the blended rate) and number of hours is reasonable for this case.

In cases where the income-earning spouse provides detailed records, there is no reason to even hire a forensic account. For example, in Isaacson v. Isaacson, 2012 WL 913083, at *5 (N.J. Super. Ct. App. Div. Mar. 20, 2012), the Superior Court of New Jersey – Appellate Division considered an appeal of the trial court’s denial for an award of fees to retain a forensic accountant. In affirming the court’s decision, it stated:

Plaintiff did not dispute his substantial earnings, as he engaged in business transactions in a regulated industry which compelled the filing of detailed income tax returns. Therefore defendant's application for the funds with which to retain a forensic accountant and to advance counsel fees was appropriately denied as unnecessary.

The same logic applies here. Stephen works in a highly regulated industry, files detailed tax returns, and has records of business transactions. See, e.g., Exhibit 2 (Affidavit of Stephen Evans-Freke) at ¶3. Over the course of the discovery process, Valerie and her legal counsel will

¹³ Since Mr. Cowhey did not consider the financial records that would be provided, this Court should seriously question how Mr. Cowhey could even reasonably determine that 800 hours would be needed.

be able to easily determine the assets and liabilities of the parties. Therefore, conducting a separate forensic analysis is not going to help anyone other than Mr. Cowhey.

(4) VALERIE HAS NOT DEMONSTRATED THAT SHE LACKS THE MEANS TO PAY FOR THE PROPOSED EXPERT.

Valerie currently has more available cash than Stephen. In addition, she has a collection of valuable art, luxury clothing, and stock. Therefore, she could pay for the expert retainer right now if she wanted to do so. This is significant for two reasons. First, a spouse must show a true financial need before the working spouse is ordered to pay litigation expenses. See, e.g., Atwal v. Atwal, 704 N.Y.S.2d 765, 766 (2000) (trial court erred in requiring husband to pay expert fees because “plaintiff failed to demonstrate that she is unable to pay her own expert fees”); Powell v. Powell, 124 S.W.3d 100, 110 (Tenn. Ct. App. 2003) (“[Wife] did not lack resources to prosecute her suit and the final decree certainly provides funds out of which these attorney and witness fees may be paid. The award of attorney’s fees and witness fees to [wife] was, therefore, in error and is reversed”). Second, Valerie is bundling these requests in a single motion to bludgeon Stephen with a large “lump sum” award.¹⁴ She fully understands this will be impossible for him because he is financially strained and cannot liquidate his private equity investments.

For these reasons, this Court should not tolerate Valerie’s gamesmanship. To properly assess her request, she should be required to provide evidence of the justification for needing such an expert, her inability to pay for the proposed expert, evidence that his fees are reasonable compared to other firms, and proof that different payment terms (such as monthly payments or payment at the end of the case) are not available. Without this detailed information, this Court must deny her motion.

¹⁴ She has not presented any evidence that the proposed expert, attorneys, or car dealership will only accept a lump sum payment.

V. VALERIE'S REQUEST FOR A LUMP SUM AWARD OF ATTORNEYS' FEES IS UNREASONABLE AND SHOULD BE DENIED.

It is obvious that the underlying goal of Valerie's request for an award of attorney's fees and costs is to generate an inflated lump sum award. Strategically, this would deliver a devastating blow to Stephen because he does not have the available funds to cover it. However, it is also important to point out that this type of award is entirely unnecessary and without precedent. Even in the most complex matters, parties are not expected to pay a \$200,000 upfront retainer to secure legal counsel. The reason this is uncommon should be obvious. Most clients simply cannot afford to advance the costs and fees at the beginning of a case. Moreover, a guarantee of \$200,000 in hourly billing has the practical effect of incentivizing that amount of billing. In other words, it almost ensures this case will become very actively litigated. The only beneficiary of this peculiar arrangement is Valerie's counsel.

This type of "lump sum" retainer is completely unnecessary – particularly if Valerie and her counsel genuinely believe that Stephen is a "ultra-high net worth" individual who may have future cash liquidity. It also does not comport with the usual practice in this jurisdiction. As this Court is aware, U.S. Virgin Islands attorneys typically bill clients for their time in monthly billing cycles without any retainer (other than a small one) or guarantee of payment. In special cases, alternative arrangements may be made. However, this is most common in contingency fee, criminal defense, and representation of debtors in bankruptcy (where fees must be approved).

Here, without a shred of evidence to back up her request as is required by V.I.R.Fam.P. 4(f)(2)(C), Valerie's counsel has provided a very high lump sum estimate and hourly rate. Indeed, other than the hourly rate of one attorney, this Court has no information about the billing increments (i.e., tenth of an hour), level of experience, additional attorneys, paralegal staff, and/or other charges. There is also no supporting affidavit or evidence concerning the prevailing market

rates in this territory.¹⁵ This background is critically important to consider in the context of determining reasonableness. See, e.g., Mahabir v. Heirs of George, 2021 WL 6100552, at *3 (V.I. S. Ct. 2021) (finding, in the context of an award of costs and fees, that the Superior Court erred when it “failed to make any attempt at an inquiry to determine the prevailing market rates, instead only stating that it was its ‘impression’ that these were the prevailing rates charged”); Matter of Est. of Jennings, 2020 WL 8213780, at *2 (V.I. Super. Ct. 2020) (“In the Estate of Melchior, the Superior Court found that attorneys’ fees being sought in the amount of \$84,860.00 for 300.80 of billable hours to be excessive and unreasonable under the eight factors above when ‘[t]he Estate was kept open for no apparent reason, from 2005 to 2011, thereby unnecessarily increasing costs and attorney’s fees.’”).

The reasonableness issue has been thoroughly discussed in decisions pertaining to the award of attorney’s fees and costs. In that context, “[t]he party seeking fees bears the burden of producing sufficient evidence of what constitutes a reasonable market rate for the essential character and complexity of the legal services rendered in order to make out a prima facie case.” Lanni v. N.J., 259 F.3d 146, 149 (3d Cir. 2001). In making this determination, this Court considers only the rates normally charged by Virgin Islands attorneys. Even in recent decisions, experienced counsel fees were either less than \$400 per hour or reduced to a lower rate. See, e.g., Bank of Am., N.A. v. Taylor, 2019 WL 11706150, at *2 (V.I. Super. Ct. Sept. 9, 2019) (holding that a \$350 per hour rate was “consistent with experienced trial counsel” who had practiced for “37 years”); High Times VI Enterprises, LLC v. Rahhal, 2021 WL 3292442, at *6 (2021) (finding “350.00 per hour to be consistent with the customary and prevailing market rates” for an attorney with twenty years of experience); Garvey v. Est. of Moorhead, 2016 WL 9503603, at *4 (V.I. Super. Ct. Aug.

¹⁵ To the extent that Valerie’s counsel addresses these deficiencies in her reply, Stephen should be allowed an opportunity to further respond.

1, 2016) (“[W]ithout any proffer of its reasonableness from Petitioner, the Court finds the claimed hourly rate of \$400 to be excessive, and will assign as reasonable an hourly rate of \$300”). Also, in these cases, none of the attorneys charged higher hourly rates for mediation, court conferences or hearings.¹⁶

This further underscores the far-reaching nature of the fee structure that Valerie asks this Court to approve. At a minimum, without a showing of reasonableness, this Court must find that Valerie has not provided adequate support for it to enter an award of attorneys’ fees and costs. However, even assuming *arguendo* this Court can consider her request, this Court still must consider Stephen’s ability to pay. As shown in his affidavit, he continues to support Valerie, himself, his children, and pay for his own legal counsel. This has depleted his available funds. Consequently, Stephen simply does not have the money to pay a lump sum retainer. If Valerie is granted a lump sum award of fees and costs without any consideration of alternative options, it would put Stephen in a precarious position since his private equity positions cannot be liquidated and his wealth is derived from illiquid assets.

Accordingly, for the foregoing reasons, this Court should deny the Emergency Motion.

CONCLUSION

Valerie’s Emergency Motion is the type of filing that spurs needless protracted litigation. Other than to tarnish this Court’s opinion of Stephen, there is no benefit to additional rounds of Valerie’s lambasting Stephen and mischaracterizing him as someone who is hiding money. The issue of spousal support had absolutely nothing to do with most of the issues described in the

¹⁶ Other than Valerie’s counsel, the undersigned counsel is not aware of any litigation attorney in the Virgin Islands who charges a higher hourly rate for trial work. Most firms charge a single hourly rate for all work performed by an attorney (in court or otherwise). The characterization of work within this differentiated framework also increases the likelihood of disputes as to whether the work falls within a particular category. For instance, would an in-office deposition be considered “office” time or “court”?

Emergency Motion. Yet, Valerie decided to go for the jugular. In response, Stephen had no option other than to provide this Court with more accurate background information about their relationship.

Fortunately, this Court can re-direct the course of this divorce by denying the Emergency Motion (or, alternatively, staying consideration of it) and ordering the parties to early mediation. As this Court apparently recognized early in the case, early mediation will benefit the parties by allowing them to negotiate before they become too bitter and entrenched in litigation.¹⁷ However, even if the Court is not inclined to order mediation, it should still deny the Emergency Motion. For the reasons more fully set forth above, the Emergency Motion seeks relief that cannot be granted at this stage. However, even assume *arguendo* that relief could be granted, Valerie has not provided this Court with adequate support for her requests.

Accordingly, for these reasons, this Court should enter an order denying the Emergency Motion and ordering the parties to mediation.

Respectfully submitted,

DUDLEY NEWMAN FEUERZEIG, LLP

DATED: April 25, 2022

By: /s/ Justin K. Holcombe
HENRY L. FEUERZEIG (V.I. Bar #270)
JUSTIN K. HOLCOMBE (V.I. Bar #957)
Law House - 1000 Frederiksberg Gade
St. Thomas, VI 00802-6736
P.O. Box 756
St. Thomas, U.S.V.I. 00804-0756
Telephone: (340) 774-4422
E-Mail: hfeuerzeig@DNFvi.com
jholcombe@DNFvi.com

¹⁷ Stephen certainly hopes that mediation will obviate the need for trial. However, if trial is necessary, Stephen is available on the possible October 2022 trial dates suggested by this Court.

LAW OFFICES OF
ANDREW L. CAPDEVILLE, P.C.

Dated: April 25, 2022

By: /s/ Andrew L. Capdeville
ANDREW L. CAPDEVILLE, ESQ.
V.I. Bar No. 206
8000 Nisky Shopping Center, Suite 201
P. O. Box 6576
St. Thomas, VI 00804-6576
Telephone: (340) 774-7784
Facsimile: (340) 774-2737
Email: capdeville@alcvilaw.com

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of April, 2022, a true and exact copy of the foregoing **OPPOSITION TO EMERGENCY MOTION FOR PENDENTE LITE SUPPORT, EXPERT FORENSIC ACCOUNTANT FEES AND COSTS, AND ATTORNEY'S FEES AND COSTS PENDENTE LITE**, which complies with the page and word limitations set forth in Rule 6-1(e), with the Clerk of the Court with the electronic filing system and served same upon opposing counsel by means of the electronic case filing system addressed to:

Julie German Evert, Esq.
5043 Norre Gade, Ste. 6
St. Thomas, U.S.V.I. 00802
E-Mail: Julieevert555@gmail.com

Laura C. Nagi, Esq.
LAURA CASTILLO NAGI, ATTORNEY
& COUNSELOR AT LAW, PLLC
5043 Norre Gade, Suite 1
St. Thomas, VI 00802

/s/ Justin K. Holcombe

FILED

April 25, 2022 09:13 PM

ST-2016-DI-00166

TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)	
)	
Petitioner,	)	CASE NO. ST-2016-DI-00166
)	
vs.	)	ACTION FOR DIVORCE
)	
VALERIE EVANS-FREKE,)	
)	
Respondent.)	
_____)	

EXHIBIT 1

Letter to Valerie Evans-Freke

STEPHEN EVANS-FREKE

January, 2017

Dear Valerie,

After a great deal of thought I have concluded that the time has come for both of us to draw a line under the past and move on in order to get on with our respective lives. I have therefore filed for divorce, as is detailed in the "complaint" being delivered to you now. You will see that this filing does not allege any fault or make any derogatory statements. For the sake of our children and our many mutual friends, I hope this sets the tone for the dialogue to come.

Upon advice, I have initiated the process with this filing. However, I want to assure you that I have absolutely no intention of abandoning you. My sincere wish is to reach an amicable settlement that is fair to both of us. I also want you to be able to face your life going forward from here with certainty as to your situation.

While this action has been filed in the USVI, as this is my domicile, you will of course need your own lawyer to represent and advise you. I would encourage you, therefore, to retain a lawyer you trust who can consult with my attorney here in order to initiate a dialogue toward reaching an amicable settlement. Within the bounds of reasonableness, should you need me to advance a reasonable retainer, I would certainly do so as long as we are both committed to reaching a mutually acceptable resolution of all the issues raised by the divorce. Similarly, I plan to continue the monthly direct and indirect financial support that you have received from me up to now.

I know well that this will be a very emotional development for you, but I do believe this is the right course of action for yourself, as well as for me, at this time. My hope is that we can be friends after this process, and that I can be there for you going forward when you need support or counsel.

I will follow up with a telephone call in the next few days


Stephen

FILED

April 25, 2022 09:13 PM
ST-2016-DI-00166
TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)	
)	
Petitioner,	)	CASE NO. ST-2016-DI-00166
)	
vs.	)	ACTION FOR DIVORCE
)	
VALERIE EVANS-FREKE,)	
)	
Respondent.)	
<hr/>)	

EXHIBIT 2

Affidavit of Stephen Evans-Freke

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

STEPHEN EVANS-FREKE,)	
)	
Plaintiff,	)	CASE NO. ST-16-DI-166
)	
vs.	)	ACTION FOR DIVORCE
)	
VALERIE EVANS-FREKE,)	
)	
Defendant.)	
)	

AFFIDAVIT OF STEPHEN EVANS-FREKE

STEPHEN EVANS-FREKE, being duly sworn, deposes and says:

1. I am the Petitioner in this action and respectfully submit this affidavit in support of my Opposition to Respondent Valerie Evans-Freke's ("Valerie") Emergency Motion for *Pendente Lite* Support, Expert Forensic Accountant Fees and Costs, and Attorney's Fees and Costs Pendente Lite (the "Emergency Motion").

2. I was very disappointed to learn that Valerie has made numerous misstatements about me in the Emergency Motion. In order to properly respond, my attorneys have prepared an Opposition to the Emergency Motion and have set forth numerous facts – including specific information about my marriage to Valerie, ongoing financial support, children, and personal finances. I have reviewed these factual statements and attest that they are true.

3. I also am concerned that Valerie has attempted to mischaracterize me as someone who has hidden assets. Simply put, that is not true. I work in a highly regulated industry, file detailed tax returns, and my controller, Daniela Kaufmann, keeps meticulous records on all my financial affairs.

4. As shown in the financial statement attached as Exhibit 1, most of my net worth (or wealth) is derived from illiquid assets such as private equity investments and small businesses. Many of these assets have no established market and cannot be sold on demand.

5. In addition to the financial statement, a cashflow statement is attached as Exhibit 2. This statement is a summary showing my income, investments, and expenditures.

6. Based on financial data, the most valuable asset is my interest in Auvén Therapeutics GP Limited ("Auvén") and Auvén Therapeutics Management L.L.P. ("Auvén Management") (collectively, the "Auvén assets"). Auvén is a private equity company focused on the development of novel pharmaceuticals, primarily in the oncological and ophthalmological fields.

7. When I moved to the Virgin Islands in 2008, I co-founded Auvén Therapeutics Holdings LP (the "Fund"), a British Virgin Islands based fund whose general partner is Auvén. That same year, I also co-founded Auvén Management in the U.S. Virgin Islands which manages the Fund.

8. The valuation of the Auvén assets set forth in Exhibit 1 is the result of independent audited valuations. Specifically, I confirm that Auvén goes through four levels of independent and rigorous procedures.

9. The first process involves the use of well-recognized business consultants specializing in the pharmaceutical industry perform in-depth assessments of the pharmaceutical development programs including interviews with top physicians and reimbursement groups. The consultants also review data from competition and other industry dynamics in order to project future sales of these pharmaceutical products and the current value of those future revenue streams. Their data is compiled into a report (the "business consultant report").

10. Once the industry specialists have completed their review, the second procedure is to share the business consultant report with the valuation group of KPMG, a well-known

international accounting firm. In turn, KPMG will apply different valuation procedures to bring estimated values into compliance with Generally Accepted Accounting Principles (GAAP) and prepare a report (the "KPMG report").

11. Once the KPMG report is completed, it is submitted to PricewaterhouseCoopers ("PwC"), a large accounting firm that serves as the auditors to the Fund. PwC reviews the KPMG report and applies industry accounting standards to check all of the inputs and conclusions from this valuation work.

12. Finally, the above reports and any additional information from PwC are submitted for review by the Audit and Finance Committee of Auen's external Advisory Board. This board consists of very senior and experienced individuals from the pharmaceuticals and finance industries.

13. All four of the above review levels, which I have described in paragraphs 7 through 11, are independent of management input.

14. In considering valuation, I reiterate that interests in a private equity fund like Auen are inherently illiquid (i.e. there is no ready market to buy and sell such interests). Furthermore, these interests are also subject to significant limitations on sales. For these reasons, unlike the valuations used in my financial statement, an independent appraisal of personal net worth typically would reflect such assets at a significant discount to the audited values in the financial statements shown in Exhibit 1.

15. My financial statement also includes investments in Castle Freke Farms and Castle Freke Distillery. It should be noted that these ventures have required long-term investments that are not equivalent to their actual, present values reflected on the financial statement. In part, this is because the only real castle, Castle Freke, was in complete ruins when it was acquired and is in a


continuing process of lengthy and expensive restoration. See Pictures of Castle Freke, attached as Exhibit 3. Going forward, I hope that these ventures will eventually become self-sustaining and a source of income for Yorick and Roland. However, unfortunately, I think it will be a few years until that happens.

16. I also have invested in Water Island Development Company LLC. This company is based in the Virgin Islands and is valued based on a leasehold interest it owns. Over the past few years, the value in this company has declined because of uncertainties with the lease renewal and our need to obtain a development partner. Due to these uncertainties, I am showing this asset at cost.

17. As of March 31, 2022, the cumulative total balance for all of my bank accounts was \$67,937.43. See Exhibit 1.

18. Although I receive a \$70,000 pre-tax monthly distribution as the manager of Auen, these distributions are scheduled to expire on June 30, 2022. It is possible, but not certain, that this will be extended to the end of 2023. This monthly income is used to support myself, Valerie, and my two adult children together with my twelve (12) year old child and his mother. It also is used to pay for medical expenses, special services for two of my sons, and to meet my payroll obligations in Ireland. After paying these and other necessary expenses, I am left with a monthly deficit of available cash or liquid assets that I have to bridge in one way or another.

19. I do not have sufficient available funds to pay a lump sum for the requests set forth in Valerie's Emergency Motion. Furthermore, because my illiquid assets cannot be sold in an established market or pledged as collateral for a loan, I cannot obtain funding for these unexpected expenses on demand.


Stephen Evans-Freke

TERRITORY OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

Sworn to and subscribed before me this 25th day of April, 2022.

Notary Public

Notary's Printed Name

My Commission Expires: 4/4/2025

NOTARY PUBLIC

Name: Andrew L. Capdeville, Esq.

My Commission Expires: April 4, 2025

NP Commission #: LNP-118-21

SL Thomas/St John, USVI District

Exhibit 1
Personal Financial Statements

2007 Financials	Schedule	Value	LIABILITIES	Schedule	Value
ASSETS					
Cash on Hand +/-					
Short-term receivables	A	\$280,000.00	Notes Payable to Banks	G	\$675,000
Non-marketable securities	C	\$1,001,000	ITIM Loan facility		\$750,000
Real Estate holdings	D	\$34,257,231	Real Estate Mortgages	See Exhibit D	\$0
Poonikiny Ranches, Inc (8,800 ac in Northern CA)		\$5,100,000	Investment Notes		\$125,000
Automobiles, personal property		\$15,199,439	Misc accounts		\$150,000
377 Intrepid		\$174,000	CT GP Notes		
36' Jarvis Newman Motor Yacht		\$160,000			
Antique Furniture		\$125,000			
Antique rugs		\$750,000			
Antique silver		\$150,000			
Art Collection		\$120,000			
		\$1,200,000			
TOTAL ASSETS		\$58,606,570	TOTAL LIABILITIES		\$1,700,000
			NET WORTH		\$56,906,570
Short-Term Receivables	A				
(3 months)	(Approx.)				
Misc. Reimbursables		26,000			
Cellic Therapeutics Holdings		390,000			
Cellic Pharma Management Ltd		650,000			
Cross Match Director Fees		25,000			
Total		1,091,000			
Non-Marketable Securities	C				
Stock	No. of Shares	Latest Price	Current Value		
Cellic Pharma General LP - 23.75% X543.4mm			\$10,300,000		
Cellic Pharma Maint LP - 50% interest			\$2,000,000		
Cellic Therapeutics GP/Maint Co - 50% (or 5% of AUM)			\$495,000		
Venrock Entrepreneurs Fund 1			\$140,000		
Venrock Entrepreneurs Fund II			\$160,000		
Venrock Entrepreneurs Fund III			\$120,000		
Cross Match Technologies, Inc.	269,643	\$10.00	\$2,696,430		
Cross Match Options	190,000	\$10.00	\$1,900,000		
Authorizer technologies Inc	251,867	\$1.50	\$377,801		
Cibus LLC	1,985,500	\$6.0000	\$11,913,000		
TOTAL			\$34,257,231		
* Based on audited Net Asset Value of G P					
Exhibit D					
Real Estate Holdings					

Property	Date Acquired	Location	Current Market Value	Ownership	Current Value	Mortgage
Crows Nest - 120 Acre Coastal Estate	1997	Northport, ME	\$5,500,000	100%	\$5,500,000	\$5,000,000
218 ac Undeveloped Land	1999	Northport, ME	\$800,000	100%	\$800,000	\$0
17000 sq. ft. mansion on 36ac	1998	Tuxedo Park, NY	\$7,000,000	100%	\$7,000,000	\$6,000,000
Castle Freke, on 70 ac	-	Co.Cork, Ireland	\$3,000,000	100%	\$3,000,000	\$1,200,000
Rathbary Castle, on 34 ac	2003	Co.Cork, Ireland	\$2,000,000		\$2,000,000	\$1,250,000
6 Contiguous Coastal Building Lots	1984-87	Shelter Cove, CA	\$250,000	100%	\$250,000	\$0
TOTAL			\$18,550,000		\$18,550,000	\$13,450,000
					Net Equity	\$5,100,000
Exhibit I						
Poonkinny Ranches, Inc	Quantity	Market value	Total value	Mortgages/Notes	Equity value	
Land - acres (Arable) - Valley HQ	49	\$4,000	\$196,000	55,186	\$140,814	
Adobe Lane	132	\$4,000	\$528,000	165,559	\$362,441	
Fischer	49	\$4,000	\$196,000	55,186	\$140,814	
Wilson/Delaney	241	\$4,000	\$964,000	\$0	\$964,000	
Grist Creek	640	\$2,800	\$1,792,000	\$0	\$1,792,000	
The Plains	240	\$2,800	\$672,000	\$166,872	\$505,128	
Fairbanks Lane	340	\$4,000	\$1,360,000	\$0	\$1,360,000	
Williams Valley	800	\$3,000	\$2,400,000	\$458,898	\$1,941,102	
Land - acres (Range) - Updegrail/Tin Cabin	850	\$1,500	\$1,275,000	\$0	\$1,275,000	
Lower Coyote Basin	575	\$1,500	\$862,500	\$0	\$862,500	
From Louella	35	\$1,500	\$52,500	\$0	\$52,500	
Campbell River Ranch	4,600	\$1,800	\$8,280,000	\$1,239,717	\$7,040,283	
Ranch House			\$225,000	\$30,000	\$195,000	
Outbuildings			\$85,000	\$0	\$85,000	
				Total Real Estate	\$16,716,582	
Harvestable timber - 000 bd ft	150	\$450	\$67,500	\$0	\$67,500	
Registered Angus bulls	18	\$2,400	\$43,200	\$0	\$43,200	
Young Registered Angus bulls	12	\$1,400	\$16,800	\$0	\$16,800	
Registered Angus Mothercows	42	\$1,500	\$63,000	\$0	\$63,000	
Commercial Angus Mothercows	340	\$750	\$255,000	\$0	\$255,000	
Angus calves	120	\$450	\$54,000	\$0	\$54,000	
Working ranch horses	12	\$2,500	\$30,000	\$0	\$30,000	
95 Dodge V10 3/4 ton Pick-up			\$25,000	\$0	\$25,000	
94 Chevrolet Suburban			\$30,000	\$0	\$30,000	
89 F150 Pick-up			\$5,000	\$0	\$5,000	
2002 Ford F250 4WD Pick-up Truck			\$32,000	\$0	\$32,000	
2004 Ford F250 4WD Pick-up Truck			\$32,197	\$0	\$32,197	
Dump Truck			\$10,000	\$0	\$10,000	
Cattle Truck/trailer			\$7,500	\$0	\$7,500	

Cargill Tank Truck				\$3,000	\$0	\$3,000		
Back Hoe/Loader				\$15,000	\$0	\$15,000		
94 Massey Ferguson tractor				\$25,000	\$0	\$25,000		
86 Ford Tractor				\$12,500	\$0	\$12,500		
85 Kubota tractor				\$10,000	\$0	\$10,000		
88 Deere tractor				\$8,000	\$0	\$8,000		
94 Massey Baler				\$15,000	\$0	\$15,000		
94 Rotary disc mower				\$6,000	\$0	\$6,000		
91 Massey bale wagon				\$12,500	\$0	\$12,500		
Seed drill				\$10,000	\$0	\$10,000		
Disc				\$6,000	\$0	\$6,000		
2000 New Holland Tractor & Mower				\$43,000	\$0	\$43,000		Paid off 9/25/04
2003 Kubota M120 4wd cab tractor				\$56,526	\$0	\$56,526		Paid off 5/25/06
2003 John Deere 650HLT crawler dozer				\$107,618	\$0	\$107,618		
John Deere 425 12' disk				\$11,721	\$0	\$11,721		
2003 Bush Hog batwing mower				\$13,451	\$0	\$13,451		
2005 Kubota ZG20-48 Hp tractor w/48" mower				\$8,920	\$1,650	\$7,270		
2005 NAEDA Agrway Aerator				\$13,306	\$6,703	\$6,603		
Miscellaneous equipment				\$50,000	\$0	\$50,000		
Refi Farm Credit Ln#427465700 (TJ Nelson Install No)b					\$0			Refi Farm Credit Ln#427465700
Farm Credit facility					\$0			Ln #427466800
Farm Credit facility					\$0			Ln #5192684101
First Community Bank - Mortgage					\$4,787,300			
Total Assets					\$19,986,739			
Total Liabilities					\$4,787,300			
Net Equity value of P.R. Inc.					\$15,199,439			

Year	U.S. Sales	European Sales	Partnership Distributions	Income per \$100,000 unit
1991	\$200,000,000	\$50,000,000	\$17,000,000	\$20,380
1992	\$400,000,000	\$100,000,000	\$34,000,000	\$40,759
1993	\$600,000,000	\$200,000,000	\$64,000,000	\$74,880
1994	\$800,000,000	\$300,000,000	\$70,000,000	\$80,120
1995	\$880,000,000	\$400,000,000	\$78,400,000	\$89,735
1996	\$968,000,000	\$440,000,000	\$86,240,000	\$98,708
1997	\$1,064,800,000	\$484,000,000	\$94,864,000	\$108,579
1998	\$1,171,280,000	\$532,400,000	\$104,350,400	\$119,437
1999	\$1,288,408,000	\$585,640,000	\$114,785,440	\$131,381
2000	\$1,352,828,400	\$614,922,000	\$120,524,712	\$137,950
2001	\$1,420,469,820	\$645,668,100	\$126,550,948	\$144,847
2002	\$1,491,493,311	\$677,951,505	\$132,878,495	\$152,090
2003	\$1,566,067,977	\$711,849,080	\$139,522,420	\$159,694
2004	\$1,644,371,375	\$747,441,534	\$146,498,541	\$167,679
2005	\$1,726,589,944	\$784,813,611	\$153,823,468	\$176,063
	\$16,574,308,827	\$7,274,685,830	\$1,483,438,424	\$1,702,302

Projected SEF			
Year	Income from 7% of G.P.	Net Income	Present Value @ 10% dc Present Value @ 15% dc
1991	\$5,950	\$26,330	\$26,330
1992	\$11,900	\$52,659	\$76,356
1993	\$129,500	\$204,380	\$273,100
1994	\$245,000	\$325,120	\$570,910
1995	\$274,400	\$364,135	\$877,954
1996	\$301,840	\$400,548	\$1,190,707
1997	\$332,024	\$440,603	\$1,512,240
1998	\$365,226	\$484,664	\$1,845,679
1999	\$401,749	\$533,130	\$2,194,242
2000	\$421,836	\$559,786	\$2,534,604
2001	\$442,928	\$587,776	\$2,868,919
2002	\$465,075	\$617,165	\$3,199,192
2003	\$488,328	\$648,023	\$3,527,295
2004	\$512,745	\$680,424	\$3,854,990
2005	\$538,382	\$714,445	\$4,183,936
	\$4,936,883	\$6,639,188	N/A

Financial Statements 12/31/2008

ASSETS	10 Schedule	Value	LIABILITIES	Schedule	Value
Cash on Hand +/-		\$0 00	Notes Payable - Wells Fargo		\$123 850
Short-term receivables	A	\$0	ITM Loan Facility First Bank		\$750 000
Non-marketable securities	C	\$15 576 058	Real Estate Mortgages	D	\$0
Real Estate holdings	D	(\$5 139 522)	Investment Notes		\$125 000
			M-s- accounts		\$150 000
Automobiles personal property		\$174 000	CT GP Notes		
377 Intrepid		\$160 000	Notes Payable - Other		\$1 161 936
36' Jarvis Newman Motor Yacht		\$125 000	Accounts payable		\$1 000 000
Antique Furniture		\$750 000			
Antique rugs		\$150 000			
Antique silver		\$120 000			
Art Collection		\$1 200 000			
TOTAL ASSETS		\$13 115 536	TOTAL LIABILITIES		\$3 959 936
			NET WORTH		\$9 155 600

Short-Term Receivables (3 month)

(Approx.)

Misc Reimbursables

Celtic Therapeutics Holdings

Celtic Pharma Management Ltd

Total

0

Non-Marketable Securities

C

Stock

No. of Shares

Latest Price

Current Value

Celtic Pharma General LP - 23.75% X\$43.4mm			10,161,950	per 2008 K1
Celtic Pharma Mgmt LP - 50% interest			-1,490,494	per 2008 K1
Celtic Therapeutics GP Ltd			-19,518	per 2008 K1
Celtic Therapeutics Management LLLP			-78,198	per 2008 K1
Venrock Entrepreneurs Fund, LP			101,803	per 2008 K1
Venrock Entrepreneurs Fund I			84,131	per 2008 K1
Venrock Entrepreneurs Fund IV			251,811	per 2008 K1
Mashamack Partners, LP			31,745	per 2008 K1
Cross Match Technologies, Inc	103,696	\$10.00	1,036,960	
Rosetta Capital Limited	75,529	\$1.00	75,529	
Illumina (owned since Feb 15, 2001)	896	\$26.05	23,341	price per Nasdaq 12/31/2008
Authorizer technologies Inc	251,867		64,766	cost
Cibus LLC - preferred stock	2 607 106	\$2 0000	5 214 212	
Cibus LLC - restricted stock	30,000	\$2.5000	75 000	
International Business Machines Limited	54 000	\$1.0000	54 000	

TOTAL

15,576 058

* Based on audited Net Asset Value of G P

Exhibit D

Real Estate Holdings

Property	Date Acquired	Location	Current Market Value	Ownership	Current Value	Mortgage
Crows Nest - 120 Acre Coastal Estate	1997	Northport, ME	\$5 000 000	100%	\$5 000 000	\$5 000 000 HSBC
218 ac Undeveloped Land	1999	Northport, ME	\$200 000	100%	\$200 000	\$0
17000 sq ft. mansion on 16 ac	1998	Tisbury Park, NY	\$9 250 000	100%	\$9 250 000	\$4 750 000 Deutsche Bank
Castle Freke on 70 ac	-	Co. Cork Ireland	\$750 000	100%	\$750 000	\$1,200 000 Ulster Bank
Rathbany Castle on 34 ac	2003	Co. Cork Ireland	\$300 000	100%	\$300 000	\$1,250 000 Ulster Bank
6 Contiguous Coastal Building Lots	1984-87	Shelter Cove CA	\$250 000	100%	\$250 000	\$0
Poonkinney Ranches			\$4 789 522			\$4 763,522 per First Community Bank Inc.
TOTAL			\$20 139,522		\$15 350,000	\$20 489,522
					Net Equity	(\$5 139,522)

Notes Payable - Other

Cash

Interest

Current Value

Richard Warburg	Crossmatch/Other	20%	1 015 225
Brooke Horspool/Jeff Kaufman	Crossmatch	10%	51 710
Fel Thronfo	Crossmatch	10%	55 000

Financial Statements 12/31/2009

ASSETS	10: Schedule	Value	LIABILITIES	Schedule	Value
Cash on Hand +/-		\$280,000.00	Notes Payable- Wells Fargo		\$57,026 per Wells Fargo Stipulation of Settlement - balance
Short-term receivables	A	\$0	ITIM Loan facility- First Republic		\$750,000
Non-marketable securities	C	\$16,404,775	Real Estate Mortgages	D	\$0
Real Estate holdings	D	(\$4,639,522)	Investment Notes		\$125,000
			Misc accounts		\$150,000
Automobiles, personal property		\$174,000	CT GP Notes		
377 Intrepid		\$160,000	Notes Payable - Other		\$1,161,936
36' Jarvis Newman Moller Yacht		\$125,000	Accounts payable		\$1,000,000
Antique Furniture		\$750,000			
Antique rugs		\$150,000			
Antique silver		\$120,000			
Art Collection		\$1,200,000			
TOTAL ASSETS		\$14,724,253	TOTAL LIABILITIES		\$3,843,962
			NET WORTH		\$10,880,291

Short-Term Receivables (3 month)

(Approx.)

Misc. Reimbursables

Celtic Therapeutics Holdings

Celtic Pharma Management Ltd

address

Total 0

Non-Marketable Securities

Stock	No. of Shares	Latest Price	Current Value	
Celtic Pharma General LP - 23.75% X \$43.4mm	1		\$6,053	per 2010 K1 beg balance
Celtic Pharma Mgmt LP - 50% interest	1		-1,169,756	per 2009 K1
Celtic Therapeutics GP L limited/Mgmt Co -			-41,043	per audited consolidated statement of partner's capital
Venrock Entrepreneurs Fund I			38,572	per 2010 K1 beg balance
Venrock Entrepreneurs Fund III			95,103	per 2010 K1 beg balance
Venrock Entrepreneurs Fund IV			229,562	per 2010 K1 beg balance
Cross Match Technologies, Inc.	143,446	\$10.00	1,434,460	
Humana (owned since Feb 15, 2001)	896	\$30.68	27,489	price per Nasdaq 12/31/2009
Rosetta Capital Limited	75,529	\$1.00	75,529	
Authorizer technologies Inc.	251,867		64,766	cost
Cibus LLC - preferred stock	2,349,183	\$4.0000	9,396,732	
Cibus LLC - restricted stock	232,130	\$2.5000	582,825	
International Bioscience Managers Limited	54,000			
TOTAL			18,404,775	

* Based on audited Net Asset Value of GP

Exhibit D

Real Estate Holdings

Property	Date Acquired	Location	Current Market Value	Ownership	Current Value	Mortgage
Crows Nest - 120 Acre Coastal Estate	1997	Norhport ME	\$5,500,000	100%	\$5,500,000	\$5,000,000 HSBC
218 ac Undeveloped Land	1999	Norhport ME	\$200,000	100%	\$200,000	\$0
17000 sq. ft. mansion on 36 ac	1998	Tuxedo Park NY	\$8,250,000	100%	\$8,250,000	\$3,250,000 Deutsche Bank
Castle Frake on 70 ac	-	Co Cork Ireland	\$750,000	100%	\$750,000	\$1,200,000 Ulster Bank
Rathbany Castle on 34 ac	2003	Co Cork Ireland	\$500,000		\$900,000	\$1,250,000 Ulster Bank
6 Contiguous Coastal Building Lots	1934-87	Shaker Cove CA	\$250,000	100%	\$250,000	\$0
Poorokinney Ranches			\$4,780,522			\$4,780,522 per First Community Bank
TOTAL			\$20,639,522		\$15,850,000	\$20,489,522
					Net Equity	(\$4,639,522)

Notes Payable - Other

	Date	Interest	Current Value
Richard Warburg		Crossmatch/Other 20%	1,015,226
Brooks Horspool/Jeff Kaufman		Crossmatch 10%	81,710
Don Nikelson		Crossmatch 20%	
Pat Trionfo		Crossmatch 10%	65,000

Financial Statements 12/31/2010

ASSETS	10 Schedule	Value	LIABILITIES	Schedule	Value
Cash on Hand +/-		\$280,000.00	Notes Payable- Wells Fargo		\$657,026
Short-term receivables	A	\$0	ITIM Loan facility-First Republic		\$750,000
Non-marketable securities	C	\$22,908,052	Real Estate Mortgages	D	\$0
Real Estate holdings	D	(\$4,661,796)	Investment Notes		\$125,000
			Misc accounts		\$150,000
Automobiles personal property		\$174,000	CT GP Notes		
377 Intrepid		\$160,000	Notes Payable - Other		\$1,161,936
36' Jarvis Newman Motor Yacht		\$125,000	Accounts payable		\$1,000,000
Antique Furniture		\$750,000			
Antique rugs		\$150,000			
Antique silver		\$120,000			
Art Collection		\$1,200,000			
TOTAL ASSETS		\$21,205,256	TOTAL LIABILITIES		\$3,843,962
			NET WORTH		\$17,361,294

Short-Term Receivables (3 month)

(Approx.)

Misc Reimbursables
 Celtic Therapeutics Holdings
 Celtic Pharma Management Ltd

Total

0

Non-Marketable Securities

C

Stock	No. of Shares	Latest Price	Current Value	
Celtic Pharma General LP - 23.75 % of 43.4mm			9,581,306	per 2010 K1
Celtic Pharma Mgmt LP - 50% Interest			-134,086	per 2010 K1
Celtic Therapeutics GP Limited Mgmt Co -			412,332	per audited consolidated statement of partner's capital
Venrock Entrepreneurs Fund I			26,407	per 2010 K1
Venrock Entrepreneurs Fund III			74,488	per 2010 K1
Venrock Entrepreneurs Fund IV			194,430	per 2010 K1
Cross Match Technologies Inc.	165,946	\$10.00	1,659,460	
Blumina (owned since Feb 15, 2001)	896	\$63.34	56,753	price per Nasdaq 12/31/2010
Rosetta Capital Limited	75,529	\$1.00	75,529	
Authorizer technologies Inc.	251,867		64,766	cust
International Bioscience Managers Limited	54,000	\$1.00	54,000	
Cibus LLC - preferred stock	1,727,259	\$4.5000	7,772,666	
Cibus LLC - restricted stock and common sto.	493,130	\$3.5000	1,725,955	
COH Inc.	1,776,311	\$8.000	14,211,049	
Grist Creek	72,530			
TOTAL			22,908,052	

* Based on audited Net Asset Value of GP

Exhibit D

Real Estate Holdings

Property	Date Acquired	Location	Current Market Value	Ownership	Current Value	Mortgage
Crows Nest - 120 Acre Coastal Estate	1997	Northport, ME	\$5,500,000	100%	\$5,500,000	\$5,000,000
718 ac Undeveloped Land	1999	Northport, ME	\$200,000	100%	\$200,000	\$0
17000 sq. ft. Mansion on 31 ac	1999	Island Park, NY	\$8,250,000	100%	\$8,250,000	\$3,250,000 Deutsche Bank
Castle Forks on 70 ac	-	Co Cork, Ireland	\$750,000	100%	\$750,000	\$1,200,000 Ulster Bank
Rathbarry Castle on 34 ac	2003	Co Cork, Ireland	\$900,000		\$900,000	\$1,250,000 Ulster Bank
6 Contiguous Coastal Building Lots	1984-87	Shelter Cove CA	\$250,000	100%	\$250,000	\$0
Puerto Rican Ranches			\$1,311,796			\$4,111,796
TOTAL			\$20,661,796		\$15,850,000	\$20,511,796
					Net Equity	(\$4,661,796)

Notes Payable - Other

	Date	Interest	Current Value
Richard Warburg	Crossmatch/Other	20%	1,015,226
Brooke Horspool/Jeff Kaufman	Crossmatch	10%	81,710
Don Nielson	Crossmatch	20%	
Pat Trionfo	Crossmatch	10%	65,000

Financial Statements 12/31/2011

ASSETS	10 Schedule	Value	LIABILITIES	Schedule	Value
Cash on Hand +		\$262,915.47	Notes Payable - Wells Fargo		\$457,792
Short-term receivables	A	\$0	ITIM Loan Interest - First Republic		\$725,000
Non-marketable securities	C	\$28,195,306	Real Estate Mortgages	D	\$0
Real Estate holdings	D	(\$782,150)	Investment Notes		\$125,000
			Misc accounts		\$150,000
Automobiles - personal property		\$174,000	CT GP Notes		
377 Intrepid		\$160,000	Notes Payable - Other		\$1,161,936
36' Jarvis Newman Motor Yacht		\$125,000	Accounts payable		\$1,000,000
Antique Furniture		\$750,000			
Antique rugs		\$150,000			
Antique silver		\$120,000			
Art Collection		\$1,200,000			
TOTAL ASSETS		\$30,355,071	TOTAL LIABILITIES		\$3,619,728
			NET WORTH		\$26,735,343

Short-Term Receivables (3 month) (Approx)

Misc Reimbursables
 Celtic Therapeutics Holdings
 Celtic Pharma Management Ltd

Total 0

Non-Marketable Securities C

Stock	No. of Shares	Latest Price	Current Value
Celtic Pharma General LP - 23,754,543.1mm	-		12,448,936 per 2011 K1
Celtic Pharma Mgmt LP - 50% Interest	-		458,791 per 2011 K1
Celtic Therapeutics GP Limited/Mgmt Co -	-		4,348,497 per audited consolidated statement of partner's capital
Venrock Entrepreneurs Fund I	-		24,159 per 2011 K1
Venrock Entrepreneurs Fund II	-		78,735 per 2011 K1
Venrock Entrepreneurs Fund IV	-		197,830 per 2011 K1
Swift Swo Inc	-		42,870 per 2011 K1
Cross Match Technologies, Inc.	165,846	\$10.00	1,659,460 Crossmatch merger payment happened in 2012
Illumina (owned since Feb 15, 2001)	896	\$30.48	27,310 per Nasdaq 12/30/2011
Bosetta Capital Limited	75,529	\$1.00	75,529
Authorizer technologies Inc.	251,867		64,766 cost
International Bioscience Managers Limited	54,000	\$1.00	54,000
Cibus LLC - preferred stock	1,463,990	\$3.7500	5,489,963
Cibus LLC - restricted stock and common sto	493,130	\$3.7500	1,849,238
COH Inc	1,213,042	\$8800	1,067,477 per 02/14/2012 sales transaction
Grist Creek	-		297,748 per 2011 K1
TOTAL			28,195,306

* Based on audited Net Asset Value of G P

Exhibit D

Real Estate Holdings	Date Acquired	Location	Current Market Value	Ownership	Current Value	Mortgage
Property						
Crows Nest - 120 Acre Coastal Estate	1997	Northport, ME	\$5,500,000	100%	\$5,500,000	\$5,000,000
218 ac Undeveloped Land	1999	Northport, ME	\$200,000	100%	\$200,000	\$0
17000 sq. ft. mansion on 36ac	1998	Tuxedo Park, NY	\$8,250,000	100%	\$8,250,000	\$8,250,000 Deutsche Bank
Castle Freke, on 70 ac	-	Co. Cork, Ireland	\$750,000	100%	\$750,000	\$3,982,150 Ulster Bank
Rathparry Castle, on 34 ac	2003	Co. Cork, Ireland	\$900,000		\$900,000	
6 Continuous Coastal Building Lots	1984-87	Shelter Cove, CA	\$250,000	100%	\$250,000	\$0
TOTAL			\$15,850,000		\$15,850,000	\$15,632,150
					Net Equity	(\$782,150)

Notes Payable - Other	Date	Interest	Current Value
Richard Warburg		Crossmatch/Other	20%
Brooke Horspool, Jeff Kauffman		Crossmatch	10%
Don Nikelson		Crossmatch	20%
Pat Trionfo		Crossmatch	10%
			1,015,226
			81,710
			65,000

Financial Statements as of 12/31/2012

Updated: 03/17/16

ASSETS	10 Schedule	Value	LIABILITIES	Schedule	Value
Cash on Hand +		\$162,007.02	Notes Payable - Wells Fargo		\$250,157
Short-term receivables	A	\$0	TTM Loan facility - First Republic		\$535,000
Non-marketable securities	C	\$24,593,082	Real Estate Mortgages	D	\$16,701,710
Real Estate holdings	D	\$11,100,000	Investment Notes		\$0
Automobiles personal property		\$174,000	CT GP Notes		\$113,214
377 Intrepid		\$175,000	Notes Payable - Other		\$853,390
36' Jarvis Newman Motor Yacht		\$100,000	Accounts payable		\$150,000
Antique Furniture		\$900,000			
Antique rugs		\$150,000			
Antique silver		\$120,000			
Art Collection		\$1,200,000			
TOTAL ASSETS		\$38,674,089	TOTAL LIABILITIES		\$18,663,471
			NET WORTH		\$20,010,618

Short-Term Receivables (6 month)

(Approx)

Total

0

Non-Marketable Securities

C

Stock	No. of Shares	Latest Price	Current Value
Celtic Pharma Holdings GP/ Mgmt			6,500,000 2012 financial Statement not available yet
Aliven Therapeutics GP Limited/Mgmt Co -			\$ 509,167 per audited 2012 Financial Statements
Venrock Entrepreneurs Fund I			20,634 per audited 2012 Financial Statements
Venrock Entrepreneurs Fund III			71,481 per audited 2012 Financial Statements
Venrock Entrepreneurs Fund IV			181,927 per audited 2012 Financial Statements
Swill Swool LLC			148,492 per 2012 K1 plus loan
Isolda LLC			850 per 12/31/12 Equity in Isolda LLC
Sonovation LLC (Authorizer technologies Inc)	290,933	\$ 65	189,106 per email from Judy Jones - Sonovation inc 02/26/15
GCA			323,667 per 2012 K1
Illumina (owned since Feb 15, 2001)	896	\$55.59	49,809 price per Nasdaq
Rosalia Capital Limited	75,529	\$1.00	75,529 Privately held
International Bioscience Managers Limited	54,000	\$1.00	54,000
Citrus Global Ltd	1,857,120	\$4.0000	7,458,480 Unquoted securities
TOTAL			24,593,082

* Based on audited Net Asset Value of G.P.

Exhibit D

Real Estate Holdings

Property	Date Acquired	Location	Ownership	Current Value	Mortgage
Crows Nest - 120 Acre Coastal Estate	1997	Northport ME	100%	\$5,000,000	\$5,000,000 HSBC
218 ac Undeveloped Land	1999	Northport ME	100%	\$200,000	\$0
17000 sq. ft. mansion on 36ac	1998	Tuxedo Park NY	100%	\$4,000,000	\$8,250,000 Deutsche Bank
Castle Frodo on 70 ac	-	Co Cork, Ireland	100%	\$724,000	\$3,451,710 Water Bank
Rathbany Castle on 34 ac	2003	Co Cork, Ireland		\$900,000	
6 Contiguous Coastal Building Lots	1984-87	Shelter Cove CA	100%	\$250,000	\$0
TOTAL				\$11,100,000	\$16,701,710

9/24/2007
Euro 2,512,000

Financial Statements as of 12/31/2013			Updated: 05/31/13		
10 Schedule		Value	Schedule		Value
ASSETS			LIABILITIES		
Cash on Hand +/-		\$865,828.95	Notes Payable- Wells Fargo		\$171,157
Short-term receivables	A	\$0	ITM Loan facility First Republic		\$465,000
Non-marketable securities	C	\$32,091,398	Real Estate Mortgages	D	\$18,845,680
Real Estate holdings	D	\$11,100,000	Investment Notes		\$0
Automobiles, personal property		\$174,000	CTGP Notes		\$146,719
377 Intrepid		\$175,000	Notes Payable - Other		\$853,390
36' Jarvis Newman Motor Yacht		\$100,000	Accounts payable		\$150,000
Antique Furniture		\$900,000			
Antique rugs		\$150,000			
Antique silver		\$120,000			
Art Collection		\$1,200,000			
TOTAL ASSETS		\$46,876,227	TOTAL LIABILITIES		\$18,631,946
			NET WORTH		\$28,244,280
Short-Term Receivables (6 month) (Approx.)					
Auven Therapeutics Mgmt distributions					
Total 0					
Non-Marketable Securities C					
Stock	No. of Shares	Latest Price	Current Value		
Celtic Pharma Holdings GP/ Mgmt	-	-	616,549 2013 financial Statement not available yet		
Auven Therapeutics GP Limited/Mgmt Co-	-	-	27,004,386 per audited 2013 Financial Statements		
Venrock Entrepreneurs Fund I	-	-	17,798 per audited 2013 Financial Statements		
Venrock Entrepreneurs Fund III	-	-	41,341 per audited 2013 Financial Statements		
Venrock Entrepreneurs Fund IV	-	-	134,154 per audited 2013 Financial Statements		
Swirl Swo LLC	-	-	237,546 per 12/31/13 Financial statements plus loan to swirl stock		
Isolde LLC	-	-	39,829 per 12/31/13 Equity in Isolde LLC		
Sonovion Inc (Authorizer technologies Inc)	290,933	\$6.65	189,106 per email from Judy Jones - Sonovion Received 2005		
GCA	-	-	230,441 per 2013 K1		
Idumna (owned since Feb 15, 2001)	896	\$110.59	99,089 price per Nasdaq		
Rosetta Capital Limited	75,529	\$1.00	75,529 Privately held		
International Bioscience Managers Limited	54,000	\$1.00	54,000		
Cibao Global Ltd	1,675,825	\$2.0000	3,351,650 Unquoted securities		
TOTAL			32,091,398		
* Based on audited Net Asset Value of G P					
Exhibit D					
Real Estate Holdings					
Property	Date Acquired	Location	Ownership	Current Value	Mortgage
Crows Nest - 120 Acres Coastal Estate	1997	Northport, ME	100%	\$5,000,000	\$5,000,000 HSBC
218 ac Undeveloped Land	1999	Northport, ME	100%	\$200,000	\$0
17000 sq ft mansion on 36ac	1998	Tuxedo Park, NY	100%	\$4,000,000	\$8,250,000 Deutsche Bank 9/24/2007
Castle Freke on 70 ac	-	Co Cork, Ireland	100%	\$750,000	\$3,595,680 Ulster Bank Euro 2,612,000
Rathbarry Castle on 34 ac	2003	Co Cork, Ireland	-	\$900,000	
6 Contiguous Coastal Building Lots	1984-87	Shelter Cove, CA	100%	\$250,000	\$0
TOTAL				\$11,100,000	\$16,845,680

Financial Statements as of 12/31/2014

Updated: 02/24/16

ASSETS	10 Schedule	Value	LIABILITIES	Schedule	Value
Cash on Hand +		\$414,439.59	Notes Payable - Wells Fargo		\$0
Short-term receivables	A	\$0	1st M. Loan Facility - First Republic		\$345,000
Non-marketable securities	C	\$28,074,920	Real Estate Mortgages	D	\$16,424,830
Real Estate Holdings	D	\$9,600,000	Investment Notes		\$0
Automobiles, personal property		\$150,000	Personal GP Notes		\$282,947
2005 Intrepid 377 Wakeboard (Celtic Fire)		\$215,281	Notes Payable - Other		\$853,390
36' Jarvis Newman Motor Yacht		\$0	Accounts payable		\$150,000
Antique Furniture		\$600,000	Camden National Bank		\$40,494
Antique rugs		\$100,000	Taxes Due		\$41,769
Antique silver		\$120,000	RE Taxes Due		
Art Collection		\$800,000			
TOTAL ASSETS		\$40,074,620	TOTAL LIABILITIES		\$18,138,430
			NET WORTH		\$21,936,190

Short-Term Receivables (6 month)

(Approx.)

Total

0

Non Marketable Securities

C

Stock	No. of Shares	Latest Price	Current Value
Celtic Pharma Holdings GP/ Mgmt	-	-	0 Per 2012 Financial Statements
Auven Therapeutics GP Limited Mgmt Co - Carry	-	-	25,139.865 per audited 2014 Financial Statements
Venrock Entrepreneurs Fund LP	-	-	20,089 per audited 2014 Financial Statements
Venrock Entrepreneurs Fund III	-	-	60,493 per audited 2014 Financial Statements
Venrock Entrepreneurs Fund IV	-	-	115,948 per audited 2014 Financial Statements
Swift Swool LLC	-	-	222,402 per 12/31/14 Financial statements plus loan to swift slyoc
Water Island Development LLC	-	-	50,700 contributions as of 12/31/2014
Aero MD	-	-	345,000 as of 12/31/14 investment ledger
Isolde LLC	-	-	143,231 per 12/31/14 Equity in Isolde LLC
Sonova Inc (Authorizer technologies Inc)	290,933	\$ 65	189,108 per email from Judy Jones - Sonova Received 2006
Muma (owned since Feb 15, 2001)	835	\$184.58	161,384 price per Nasdaq 12/31/2014
Rosetta Capital Limited	75,529	\$1.00	75,529 Privately held
International Bioscience Managers Limited	54,000	\$1.00	54,000
Cibola Global Ltd	493,180	\$1.0000	493,180 Unquoted securities
TOTAL			28,074,920

* Based on audited Net Asset Value of G P

Exhibit D

Real Estate Holdings

Property	Date Acquired	Location	Ownership	Current Value	Mortgage
Crows Nest - 120 Acre Coastal Estate	1997	Northport ME	100%	\$4,000,000	\$3,000,000 HSBC
218 ac Undeveloped Land	1995	Northport ME	100%	\$200,000	\$0
17000 sq. ft. mansion on 36ac	1993	Tuxedo Park NY	100%	\$3,750,000	\$8,250,000 Deutsche Bank 9/24/2007
Castle Freke on 70 ac	-	Co. Cork, Ireland	100%	\$750,000	\$3,174,830 Ulster Bank Euro 2,612,000
Ruth Barry Castle on 34 ac	2003	Co. Cork, Ireland	-	\$500,000	
TOTAL				\$9,500,000	\$16,424,830

Financial Statements as of 12/31/2015 - draft

Updated: 06/21/16

ASSETS	10 Schedule	Value	LIABILITIES	Schedule	Value
Cash on Hand +/-		\$113,339.13	Notes Payable- Wells Fargo		\$0
Short-term receivables	A	\$0	ITIM Loan facility-FirstRepublic		\$225,000
Non-marketable securities	C	\$33,998,661	Real Estate Mortgages	D	\$7,232,429
Real Estate holdings	D	\$5,600,000	Investment Notes		\$0
Automobiles, personal property		\$150,000	Auven GP Notes		\$383,136
2005 Intrepid 377 Walkaround (Celtic Fire)		\$215,261	Notes Payable - Other		\$750,000
36' Jarvis Newman Motor Yacht		\$0	Accounts payable		\$150,000
Antique Furniture		\$600,000	Camden National Bank		\$25,355
Antique rugs		\$100,000	Taxes Due		\$58,960
Antique silver		\$120,000	RE Taxes Due		
Art Collection		<u>\$800,000</u>			
TOTAL ASSETS		\$41,697,261	TOTAL LIABILITIES		\$8,824,880
			NET WORTH		\$32,872,382

Short-Term Receivables (6 month) (Approx.)

Total 0

Non-Marketable Securities

C

Stock	No. of Shares	Latest Price	Current Value
Celtic Pharma Holdings GP/ Mgmt	-		0 Per 2012 Financial Statements
Auven Therapeutics GP Limited/Mgmt Co - Carry	-		31,116,836 per audited 2015 Financial Statements
Venrock Entrepreneurs Fund LP			0 per audited 2015 Financial Statements
Venrock Entrepreneurs Fund III			56,076 per audited 2015 Financial Statements
Venrock Entrepreneurs Fund IV			135,826 per audited 2015 Financial Statements
Swift Swool LLC			0 closed in 2015
Water Island Development LLC			438,612 40% Equity as of 12/31/2015
Aero MD			1,095,000 per 12/31/15 Investment ledger
Isolde LLC			172,513 per 12/31/15 Equity in Isolde LLC
Illumina (owned since Feb 15, 2001)	896	\$191.95	171,983 Publicly traded on Nasdaq as of 12/31/2015
Sonovation Inc (Authorizer technologies Inc)	290,933	\$.65	189,106 per email from Judy Jones - Sonova Received 2006
Rosetta Capital Limited	75,529	\$1.00	75,529
International Bioscience Managers Limited	54,000	\$1.00	54,000 Privately held
Cibus Global Ltd	493,180	\$1.0000	493,180 Unquoted securities
TOTAL			<u>33,998,661</u>

* Based on audited Net Asset Value of G.P.

Exhibit D

Real Estate Holdings

Property	Date Acquired	Location	Ownership	Current Value	Mortgage
Crows Nest Inc - 218 ac Undeveloped Land	1999	Northport, ME	100%	\$200,000	\$0
17000 sq. ft. mansion on 36ac	1998	Tuxedo Park, NY	100%	\$3,750,000	\$4,550,000 Deutsche Bank
Castle Freke, on 70 ac	-	Co Cork, Ireland	100%	\$750,000	\$1,200,000 Capita
Rathbarry Castle, on 34 ac	2003	Co.Cork, Ireland		\$900,000	\$1,482,429 Capita
TOTAL				\$5,600,000	\$7,232,429

per 01/29/16 state
per 01/29/16 state

Financial Statements as of 09/30/2016 - draft

Updated: 08/17/18

ASSETS	10 Schedule	Value	LIABILITIES	Schedule	Value
Cash on Hand +/-		\$443,136.35	Notes Payable- Wells Fargo		\$0
Short-term receivables	A	\$0	ITIM Loan facility-FirstRepublic		\$135,000
Non-marketable securities	C	\$33,131,487	Real Estate Mortgages	D	\$7,327,236
Real Estate holdings	D	\$6,100,000	Investment Notes		\$0
Automobiles, personal property		\$150,000	Auven GP Notes		\$378,788
2005 Intrepid 377 Walkaround (Celtic Fire)		\$215,261	Notes Payable - Other		\$9,680,062
VI Inventory content		\$183,600	Accounts payable		\$93,876
Antique Furniture		\$600,000	Camden National Bank		\$15,355
Antique rugs		\$100,000	Taxes Due		\$109,944
Antique silver		\$120,000	RE Taxes Due		\$105,306
Art Collection		\$800,000			
TOTAL ASSETS		\$41,843,485	TOTAL LIABILITIES		\$17,845,567
			NET WORTH		\$23,997,918

Short-Term Receivables (6 month) (Approx.)

Total 0

Non-Marketable Securities

C

Stock	No. of Shares	Latest Price	Current Value
Celtic Pharma Holdings GP/ Mgmt	-		0 Per 2012 Financial Statements
Auven Therapeutics GP Limited/Mgmt Co - Carry	-		29,712,012 per audited Q3 2016 Financial Statements
Venrock Entrepreneurs Fund III			61,548 per audited 2016 Financial Statements
Venrock Entrepreneurs Fund IV			69,757 per audited 2016 Financial Statements
Water Island Development LLC			377,239 Equity as of 12/31/2016
Aero MD			1,460,000 per 12/31/16 investment ledger
Isolde LLC			212,569 per 12/31/16 Equity in Isolde LLC
Sonovation Inc (Authorizer technologies Inc)	290,933	\$.76	221,109 per current equity round
Rosetta Capital Limited	75,529	\$1.00	75,529 Privately held
International Bioscience Managers Limited	54,000	\$1.00	54,000 Privately held
Cibus Global Ltd	493,180	\$1.80	887,724 Unquoted securities
TOTAL			33,131,487

* Based on audited Net Asset Value of G P

Exhibit D

Real Estate Holdings

Property	Date Acquired	Location	Ownership	Current Value	Mortgage
Crows Nest Inc - 218 ac Undeveloped Land	1999	Northport, ME	100%	\$200,000	\$0
17000 sq. ft. mansion on 36ac	1998	Tuxedo Park, NY	100%	\$4,250,000	\$4,550,000 Deutsche Bank
Castle Freke, on 70 ac	-	Co Cork, Ireland	100%	\$750,000	
Rathbarry Castle, on 34 ac	2003	Co Cork, Ireland	100%	\$900,000	\$2,777,236 Capita per 03/01/17 state
TOTAL				\$6,100,000	\$7,327,236

Financial Statements as of 12/31/2016 - draft

Updated: 06/02/17

ASSETS	10 Schedule	Value	LIABILITIES	Schedule	Value
Cash on Hand +/-		\$269,206.68	Notes Payable- Wells Fargo		\$0
Short-term receivables	A	\$0	ITIM Loan facility-FirstRepublic		\$105,000
Non-marketable securities	C	\$50,405,706	Real Estate Mortgages	D	\$7,327,236
Real Estate holdings	D	\$6,100,000	Investment Notes		\$0
Automobiles, personal property		\$150,000	Auven GP Notes		\$329,630
2005 Intrepid 377 Walkaround (Celtic Fire)		\$215,261	Notes Payable - Other		\$9,680,062
VI inventory content		\$183,600	Accounts payable		\$93,876
Antique Furniture		\$600,000	Camden National Bank		\$15,355
Antique rugs		\$100,000	Taxes Due		\$109,944
Antique silver		\$120,000	RE Taxes Due		\$105,306
Art Collection		\$800,000			
TOTAL ASSETS		\$58,943,774	TOTAL LIABILITIES		\$17,766,409
			NET WORTH		\$41,177,365

Short-Term Receivables (6 month) (Approx.)

Total 0

Non-Marketable Securities

C

Stock	No. of Shares	Latest Price	Current Value
Celtic Pharma Holdings GP/ Mgmt	-		0 Per 2012 Financial Statements
Auven Therapeutics GP Limited/Mgmt Co - Carry	-		46,986,231 per audited 2016 Financial Statements
Venrock Entrepreneurs Fund III	-		61,548 per audited 2016 Financial Statements
Venrock Entrepreneurs Fund IV	-		69,757 per audited 2016 Financial Statements
Water Island Development LLC	-		377,239 Equity as of 12/31/2016
Aero MD	-		1,460,000 per 12/31/16 investment ledger
Isolde LLC	-		212,569 per 12/31/16 Equity in Isolde LLC
Sonovation Inc (Authorizer technologies Inc)	290 933	\$.76	221,109 per current equity round
Rosetta Capital Limited	75,529	\$1.00	75,529 Privately held
International Bioscience Managers Limited	54 000	\$1.00	54,000 Privately held
Cibus Global Ltd	493 180	\$1.80	887,724 Unquoted securities
TOTAL			50,405,706

* Based on audited Net Asset Value of G P

Exhibit D

Real Estate Holdings

Property	Date Acquired	Location	Ownership	Current Value	Mortgage
Crows Nest Inc - 218 ac Undeveloped Land	1999	Northport, ME	100%	\$200,000	\$0
17000 sq ft. mansion on 36ac	1998	Tuxedo Park, NY	100%	\$4,250,000	\$4,550,000 Deutsche Bank
Castle Freke on 70 ac	-	Co Cork, Ireland	100%	\$750,000	
Rathbary Castle on 34 ac	2003	Co Cork, Ireland	100%	\$900,000	\$2,777,236 Capita per 03/01/17 state
TOTAL				\$6,100,000	\$7,327,236

Illumina (owned since Feb 15, 2001)	896	\$191.95	171,983 Publicly traded on Nasdaq as of 12/31/2015
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Financial Statements as of 12/31/2017 - draft

Updated: 07/06/18

ASSETS	10 Schedule	Value	LIABILITIES	Schedule	Value
Cash on Hand +/-		\$230,875.30	ITIM Loan facility-First Republic		\$0
Short-term receivables	A	\$0	Real Estate Mortgages	D	\$4,550,000
Non-marketable securities	C	\$70,441,783	Investment Notes		\$0
Real Estate holdings	D	\$6,600,000	Auven GP Notes		\$500,640
Automobiles, personal property		\$150,000	Notes Payable - Other		\$9,680,062
2005 Intrepid 377 Walkaround (Celtic Fire)		\$215,261	Accounts payable		\$37,080
VI inventory content		\$183,600	Camden National Bank		\$5,355
Antique Furniture		\$600,000	Taxes Due		\$117,157
Antique rugs		\$100,000	RE Taxes Due		
Antique silver		\$120,000			
Art Collection		\$800,000			
TOTAL ASSETS		\$79,441,520	TOTAL LIABILITIES		\$14,890,293
			NET WORTH		\$64,551,226

Short-Term Receivables (6 month) (Approx)

Total 0

Non-Marketable Securities

C

Stock	No. of Shares	Latest Price	Current Value
Auven Therapeutics GP Limited/Mgmt Co - Carry			66,838,388 per audited 2017 Financial Statements
Venrock Entrepreneurs Fund III			44,852 per audited 2017 Financial Statements
Venrock Entrepreneurs Fund IV			63,331 per audited 2017 Financial Statements
Water Island Development LLC			515,810 Equity as of 12/31/2017
Aero MD			1,543,768 per 12/31/17 investment ledger
Isolde LLC			0 per 12/31/17 Equity in Isolde LLC
Sonovation Inc (Authorizer technologies Inc)	290,933	\$ 76	221,109 per current equity round
Rosetta Capital Limited	75,529	\$1.00	75,529 Privately held
International Bioscience Managers Limited	54,000	\$1.00	54,000 Privately held
Cibus Global Ltd	493,180	\$2.20	1,084,996 Unquoted securities
TOTAL			70,441,783

* Based on audited Net Asset Value of G P

Exhibit D

Real Estate Holdings

Property	Date Acquired	Location	Ownership	Current Value	Mortgage
Crows Nest Inc - 218 ac Undeveloped Land	1999	Northport, ME	100%	\$200,000	\$0
17000 sq ft mansion on 36ac	1998	Tuxedo Park, NY	100%	\$4,250,000	\$4,550,000 Deutsche Bank
Castle Freke, on 70 ac	-	Co.Cork, Ireland	100%	\$750,000	
Rathbarry Castle, on 34 ac	2003	Co Cork, Ireland	100%	\$900,000	
Conelli Land	2016	Co Cork, Ireland	100%	\$300,000	
Sea View Ahaglaslin	2017	Co Cork, Ireland	100%	\$200,000	paid Euro 200,000
TOTAL				\$6,600,000	\$4,550,000

Financial Statements as of 12/31/2018 - draft

Updated: 07/06/18

ASSETS	10 Schedule	Value	LIABILITIES	Schedule	Value
Cash on Hand +/-		\$241,749.78			
Short-term receivables	A	\$0	Real Estate Mortgages	D	\$4,550,000
Non-marketable securities	C	\$70,441,783	Investment Notes		\$0
Real Estate holdings	D	\$6,600,000	Auven GP Notes		\$500,640
Automobiles, personal property		\$150,000	Notes Payable - Other		\$9,680,062
2008 Inland 527 Walkaround (Celtic Fire)		\$118,241	Accounts payable		\$37,080
VI inventory content		\$183,600			
Antique Furniture		\$600,000	Taxes Due		\$117,157
Antique rugs		\$100,000	RE Taxes Due		
Antique silver		\$120,000			
Art Collection		\$800,600			
TOTAL ASSETS		\$79,452,394	TOTAL LIABILITIES		\$14,884,939
			NET WORTH		\$64,567,455

Short-Term Receivables (6 month) (Approx.)

Total 0

Non-Marketable Securities

Stock	No. of Shares	Latest Price	Current Value
Auven Therapeutics GP Limited/Mgmt Co - Carry	-		66,838,388 per audited 2017 Financial Statements
Venrock Entrepreneurs Fund III	-		44,852 per audited 2017 Financial Statements
Venrock Entrepreneurs Fund IV	-		63,331 per audited 2017 Financial Statements
Water Island Development LLC	-		515,610 Equity as of 12/31/2017
Aero MD	-		1,543,768 per 12/31/17 Investment ledger
Sonovation Inc (Authoriza technologies Inc)	290,933	\$ 76	221,109 per current equity round
Rosetta Capital Limited	75,529	\$1 00	75,529 Privately held
International Bioscience Managers Limited	54,000	\$1 00	54,000 Privately held
Cibus Global Ltd	493,180	\$2 20	1,084,996 Unquoted securities
TOTAL			70,441,783

* Based on audited Net Asset Value of G P

Exhibit D
Real Estate Holdings

Property	Date Acquired	Location	Ownership	Current Value	Mortgage
Crows Nest Inc - 218 ac Undeveloped Land	1999	Northport, ME	100%	\$200,000	\$0
17000 sq. ft. mansion on 36ac	1998	Tuxedo Park, NY	100%	\$4,250,000	\$4,550,000 Deutsche Bank
Castle Freke, on 70 ac	-	Co Cork, Ireland	100%	\$750,000	
Rathbarr Castle, on 34 ac	2003	Co Cork, Ireland	100%	\$900,000	
Conell Land	2016	Co Cork, Ireland	100%	\$300,000	
Sea View Ahaglaslin	2017	Co Cork, Ireland	100%	\$200,000	paid Euro 200,000
TOTAL				\$6,600,000	\$4,550,000

Financial Statements as of 12/31/2019 - draft			Updated: 05/01/20		
	10 Schedule	Value		Schedule	Value
ASSETS			LIABILITIES		
Cash on Hand +/-		\$99,462.61			
Short-term receivables	A	\$0	Real Estate Mortgages	D	\$4,550,000
Non-marketable securities	C	\$44,828,587	Investment Notes		\$0
Real Estate Holdings	D	\$6,600,000	Auven GP Notes		\$500,640
Automobiles, personal property		\$150,000	Notes Payable - Other		\$9,680,062
2005 Intrepid 377 Walkaround (Celtic Fire)	Jan 2019 survey	\$215,261	Accounts payable		
VI inventory content		\$183,600			
Antique Furniture		\$600,000	Taxes Due		\$248,078
Antique rugs		\$100,000	RE Taxes Due		
Antique silver		\$120,000			
Art Collection		\$800,000			
TOTAL ASSETS		\$53,696,911	TOTAL LIABILITIES		\$14,978,779
			NET WORTH		\$38,718,131
Short-Term Receivables (6 month)	(Approx)				
Total		0			
Non-Marketable Securities	C				
Stock	No. of Shares	Latest Price	Current Value		
Auven Therapeutics GP Limited/Mgmt Co - Carry	:		40,661,551 per audited 2019 Financial Statements		
Venrock Entrepreneurs Fund III			15,516 per audited 2019 Financial Statements		
Venrock Entrepreneurs Fund IV			34,156 per audited 2019 Financial Statements		
Water Island Development LLC			966,664 12/31/2019		
Castle-Freke Distillery			528,798 Privately held 12/31/2019		
Aero MD			1,543,768 per 12/31/17 investment ledger		
Sonovation Inc (Authorizer technologies Inc)	290,933	\$ 76	221,109 per July 2019 equity round		
Rosetta Capital Limited	75,529	\$1 00	75,529 Privately held		
International Bioscience Managers Limited	54,000	\$1 00	54,000 Privately held		
Cibus Global Ltd	330,680	\$2 20	727,496 Unquoted securities		
TOTAL			44,828,587		
* Based on audited Net Asset Value of G P					
Exhibit D					
Real Estate Holdings					
Property	Date Acquired	Location	Ownership	Current Value	Mortgage
Crows Nest Inc - 218 ac Undeveloped Land	1999	Northport, ME	100%	\$200,000	\$0
17000 sq ft. mansion on 36ac	1998	Tuxedo Park, NY	100%	\$4,250,000	\$4,550,000 Deutsche Bank
Castle Freke, on 70 ac	-	Co. Cork, Ireland	100%	\$750,000	
Rathbarry Castle, on 34 ac	2003	Co. Cork, Ireland	100%	\$900,000	
Conelli Land	2016	Co. Cork, Ireland	100%	\$300,000	
Sea View Ahaglaslin	2017	Co. Cork, Ireland	100%	\$200,000	paid Euro 200,000
TOTAL				\$6,600,000	\$4,550,000

Financial Statements as of 12/31/2021			Updated 03/11/21	
	10 Schedule	Value		Schedule Value
ASSETS			LIABILITIES	
Cash on Hand +/-	E	\$100,749.95		
Short-term receivables	A	\$210,000	Real Estate Mortgages	D \$4,500,000
Non-marketable securities	C	\$43,788,065	Investment Notes	\$0
Real Estate holdings	D	\$11,287,930	Auven GP Notes	\$411,896
Automobiles, personal property		\$220,000	Notes Payable - Other	\$993,945
2005 Intrepid 377 Walkaround (Celtic Fire)		\$199,000	Amex balance	\$103,043
VI home contents		\$100,000	Personal Loan - Eshelman	\$289,956
Rathbary home contents		\$200,000	Personal Loan - Hartman	
			Personal Loan - Brammer	\$425,000
			Personal Loan - Barbara B	\$75,000
Antique Furniture		\$600,000	Taxes Due - approx	\$349,527
Antique rugs		\$100,000	RE Taxes Due - 2022	
Antique silver		\$120,000		
Art Collection		\$600,000		
TOTAL ASSETS		\$57,525,745	TOTAL LIABILITIES \$7,148,367	
			NET WORTH \$50,377,378	
Short-Term Receivables (3 month)	(Approx.)			
3 month GP distribution	210,000			
Total	210,000			
Non-Marketable Securities		C		
Stock	No. of Shares	Price as of 12/31/21	Current Value	
ADC Therapeutics - ADCT (NYSE)	3,500	\$20.25	70,875	
Auven Therapeutics GP Limited/Mgmt Co - Carry			28,868,615 per audited 2021 Financial Statements	
Venrock Entrepreneurs Fund III			1,454 per audited 2021 Financial Statements	
Venrock Entrepreneurs Fund IV			64,461 per audited 2021 Financial Statements	
Water Island Development LLC	41% interest		7,200,000 12/31/2020	
Castle Freke Farms Ltd - 100% interest	At cost to date		3,981,669 Privately held contrib as of 12/30/2020	
Castle-Freke Distillery Ltd - 100% interest	At cost to date		706,666 Privately held contrib as of 12/31/2020	
AeroMD (Air Ambulance Caribbean, Inc.) - 13% int	Most recent price		2,080,000 Unquoted securities	
Rosetta Capital Limited	75,529	\$1.00	75,529 Privately held	
Oona Immuno-Oncology SA	At cost to date		100,000 Invested Feb 2021	
International Bioscience Managers Limited	54,000	\$1.00	54,000 Privately held	
Livby Inc.	At cost to date		373,694 total invested so far	
Cibus Global Ltd	120,630	\$1.75	211,103 as of 12/31/21, only 120,630 rest shares @03/01 \$193,008	
TOTAL			43,788,065	
* Based on audited Net Asset Value of GP				
Privately held				
Exhibit D				
Real Estate Holdings				
Property	Date Acquired	Location	Ownership	Current Value Mortgage
Crows Nest Inc - 218 ac Undeveloped Land	1999	Northport ME	100%	\$300,000 \$0
17000 sq ft mansion on 26ac, Tuxedo Park NY	1998	Tuxedo Park, NY	100%	\$5,500,000 \$3,750,000
Castle Freke, on 80 ac	1999	Co Cork, Ireland	100%	\$2,500,000 \$0
Rathbary Castle, on 34 ac	2003	Co Cork, Ireland	100%	\$1,800,000 \$0
South Lodge, Rathbary Castle	2012	Co Cork, Ireland	100%	\$350,000 \$0
Conally Farm	2016	Co Cork, Ireland	100%	\$300,000 \$0
Sea View Ahaglaslin Farm	2017	Co Cork, Ireland	100%	\$200,000 0
Castle Freke Cottage	2020	Co Cork, Ireland	100%	\$287,930 0
Deposit on Garden House	2020	Co Cork, Ireland		\$50,000
TOTAL				\$11,287,930 \$3,750,000

Financial Statements as of 03/31/2022			Updated: 04/08/22	
	10: Schedule	Value		Schedule Value
ASSETS			LIABILITIES	
Cash on Hand +/-	E	\$67,937.43		
Short-term receivables	A	\$210,000	Real Estate Mortgages	D \$4,000,000
Non-marketable securities	C	\$30,856,395	Auven GP Notes	\$411,896
Real Estate holdings	D	\$10,850,000	Notes Payable - Other	\$993,945
Automobiles, personal property		\$220,000	Amex balance	\$110,240
2005 Intrepid 377 Walkaround (Celtic Fire)		\$199,000	Personal Loan - Eshelman	\$289,956
VI home contents		\$100,000	Personal Loan - Brammer	\$425,000
Rathbary home contents		\$200,000	Personal Loan - Barbara B	\$75,000
Antique Furniture (Tuxedo and Rathbary)		\$600,000	Taxes Due - approx	\$469,428
Antique rugs (Tuxedo and Rathbary)		\$100,000	RE Taxes Due - 2022	
Antique Evans-Freke family silver		\$150,000		
Art Collection (Tuxedo, London and Rathbary)		\$600,000		
Garden statuary, Roman Sarcophagus (Tuxedo)		\$100,000		
TOTAL ASSETS		\$44,253,332	TOTAL LIABILITIES \$6,775,466	
			NET WORTH \$37,477,867	
Short-Term Receivables (3 month)	(Approx.)			
3 month GP distribution		210,000		
Total		210,000		
Non-Marketable Securities	C			
Stock	No. of Shares	Price as of 12/31/21	Current Value	
ADC Therapeutics - ADCT (NYSE) (Insider trading)	3,500	\$14.69	51,415 03/31/22 stock price	
Auven Therapeutics GP L mited/Mgmt Co - Carry	-		24,595,500 03/31/22 estimated value per draft 10 Financials	
Venrock Entrepreneurs Fund III			1,454 pcr audited 2021 Financial Statements	
Venrock Entrepreneurs Fund IV			64,461 per audited 2021 Financial Statements	
Water Island Development Company LLC	50% interest		1,037,826 12/31/2021 capital contributions	
Castle Freke Farms Ltd - 100% interest	net equity		1,278,526 Net equity draft 12/31/21 financial statements	
Castle-Freke Distillery Ltd - 100% interest	At cost to date		895,414 cost to date per draft 12/31/21 financial statements	
AeroMD (Air Ambulance Caribbean, Inc) - 13% int	Most recent price		2,080,000 Unquoted securities	
Rosetta Capital Limited	75,529	\$1.00	75,529 Privately held	
Opna Immuno-Oncology SA	At cost to date		100,000 invested Feb 2021 - private	
Livby Inc. Yorick E-F's start-up	At cost to date		373,694 - private	
Cibus Global Ltd	120,630	\$2.50	301,575 as of 03/31/22 - private	
TOTAL			30,856,395	
* Based on audited Net Asset Value of General Partner Interest			Privately held	
Exhibit D				
Real Estate Holdings				
Property	Date Acquired	Location	Ownership	Current Value Mortgage
Cabrita Lot 6D-1	2014	US Virgin Islands	100%	\$350,000 \$0 *
Crows Nest Inc - 218 ac Undeveloped Land	1999	Northport, ME	100%	\$350,000 \$0 *
24000 sq ft. mansion on 26ac, Tuxedo Park, NY	1998	Tuxedo Park, NY	100%	\$5,500,000 \$4,000,000
Castle Freke, on 80 ac	1999	Co. Cork, Ireland	100%	\$2,500,000 \$0 **
Rathbary Castle, on 34 ac	2003	Co. Cork, Ireland	100%	\$1,800,000 \$0 **
South Lodge, Rathbary Castle	2012	Co. Cork, Ireland	100%	\$350,000 \$0
TOTAL				\$10,850,000 \$4,000,000

Exhibit 2
Cashflow statement

Total Income and Expenses/Investments 2019 - 2021 Stephen Evans-Freke

	2019	2020	2021	Total
Auven Management monthly distributions	600,000.00	600,000.00	1,042,561.89	2,242,561.89
Auven Management Advances/Repayments	(300,000.00)		200,000.00	(100,000.00)
Auven Transaction fee distributions	416,600.00	1,951,000.00	28,034.50	2,395,634.50
Auven GP Note Payments		(329,630.00)		(329,630.00)
Carried Interest distribution		2,933,051.79		2,933,051.79
LP distribution		528,994.08		528,994.08
Carried Interest sales	3,510,077.00	400,000.00	175,000.00	4,085,077.00
Total Auven	4,226,677.00	6,083,415.87	1,445,596.39	11,755,689.26
Social Security	34,017.00	37,885.00	32,786.00	104,688.00
UBS Pension	16,179.95	16,584.60	16,584.60	49,349.15
Fidelity Pension	19,600.85	22,449.00	22,449.00	64,498.85
Cibus/COH sales	150,000.00			150,000.00
Loans/ Repayment of loans		389,956.00	(516,600.00)	(126,644.00)
Rosetta Capital Distributions	97,818.57	6,547.11	101,536.20	205,901.88
Inspiration Biopharmaceuticals distribution	14,140.69	13,842.48	15,903.79	43,886.96
Venrock Capital Distributions	18,929.00			18,929.00
ADCT Board Member fees		13,745.05	68,703.35	82,448.40
Shelter Cover property costs	(10,537.10)	(1,296.82)	(180.00)	(12,013.92)
Total Incoming funds	4,566,825.96	6,583,128.29	1,186,779.33	12,336,733.58
Capital/Investments:				
purchase of ADCT shares at IPO		131,100.00		131,100.00
Deposit on Rathbarry Garden House 2020		\$ 51,663.30		51,663.30
Investment in Livby (Yorick,s start up)	85,000.00	-	276,416.00	361,416.00
Investment in WIDC	100,034.12	30,000.00	83,120.80	213,154.92
Opna Immuno-Oncology SA			\$ 100,000.00	100,000.00
Trading losses			27,190.00	27,190.00
Art - for Castle Freke	46,687.63	39,484.19	13,809.42	99,981.24
CF Farms funding	1,525,519.08	1,430,560.63	1,149,429.20	4,105,508.91
CF Distillery funding	312,203.81	218,242.94	108,366.83	638,813.59
Total Investments	2,063,444.64	1,901,051.06	1,758,332.25	5,728,827.96
Expenses:				
Valerie	582,015.43	304,519.18	437,499.01	1,324,033.62
Tristan and Veronique	147,602.49	198,023.80	210,774.23	556,400.52
Roland (Including medical expenses in 2021)	114,027.19	86,777.98	189,843.21	390,648.38
Yorick	160,364.81	123,957.58	123,969.05	408,291.44
Other Irish expenses	99,688.24	96,107.21	25,710.49	221,505.94
Divorce legal fees	248,717.28	75,000.00	**	323,717.28
RT Park fees	2,250.69	2,437.57	33,826.92	38,515.18
Income taxes	156,299.55	113,500.00	\$ 214,500.00	484,299.55
60-1 property taxes	2,900.95	1,528.31	1,928.31	6,357.57
Crows Nest funding	2,240.32	4,593.70	2,263.20	9,097.22
Celtic Fire upkeep, captain and repairs	115,448.16	83,956.85	65,503.27	265,908.28
VI Rent, wapa and water	166,206.15	237,939.37	227,679.70	631,825.22
ITIM business expenses	35,001.20	11,330.15	16,146.03	62,477.39
Gifts and consulting fees	74,716.99	170,639.51	10,002.00	255,358.50
Barbara's medical and medical travel exp			43,617.97	43,617.97
St Thomas household expenses	63,100.00	69,300.00	35,500.00	167,900.00
Other expenses - breakdown to come.	668,089.04	335,299.26	555,562.94	1,558,951.24
Total expenses	2,639,668.49	1,914,910.48	2,194,325.33	6,748,905.30
Remaining	(142,287.17)	2,767,166.75	(2,765,879.25)	(140,999.68)
Beginning of year cash balance	241,749.78	99,462.61	2,866,629.20	
Cash on hand end of year	99,462.61	2,866,629.20	100,749.95	
	99,462.61	2,866,629.36	100,749.95	

** \$72,000 2021 divorce legal fees payable 2022

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April 25, 2022 09:13 PM
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TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)	
)	
Petitioner,	)	CASE NO. ST-2016-DI-00166
)	
vs.	)	ACTION FOR DIVORCE
)	
VALERIE EVANS-FREKE,)	
)	
Respondent.)	
_____)	

EXHIBIT 3

**“Why Are Biotech Stocks Underperforming? The
News From Companies Has Been Mostly Bad”**

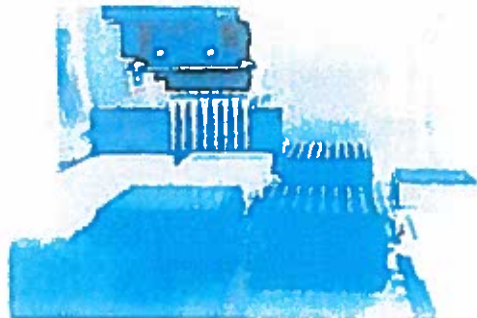
BARRON'S

BIOTECH AND PHARMA STREET NOTES

Why Are Biotech Stocks Underperforming? The News From Companies Has Been Mostly Bad.

By Josh Nathan Kozis

March 21, 2022 10:31 am ET



Biotech analysts have been discussing for months why the stocks are so weak. Dreamstime

Stocks have done poorly in 2022, but biotech shares have done worse than most. Jefferies analyst Michael Yee has a theory about what is going on.

The [SPDR S&P Biotechnology exchange traded fund \(ticker: XBI\)](#), which tracks the sector, is down 17.7% this year, while the [iShares Biotechnology ETF \(IBB\)](#), which also tracks the sector, has lost 14.2%. That is

in comparison to the [S&P 500](#), which is down 6.1%

The losses in 2022 are exacerbating pain for biotech investors that began last year, particularly in the small and mid cap segment of the industry. The XBI is down 35.5% over the past 12 months, and nearly 50% off the highs the sector hit early last February.

Biotech analysts have agonized for months over what has gone wrong with biotech stocks, and what can fix it. In a note out late Friday, Yee says the problem could be that biotech companies just haven't had much good news.

Yee wrote that no single biotech stock with a market cap of over \$500 million has climbed 15% or more in a single day so far this year in response to positive trial data.

That is compared with 26 such single day moves in 2021, and 30 in 2020. At the same time, a single biotech stock has dropped 15% or more in a single day eight times this year.

"There just haven't been a lot of great data events recently," Yee wrote. "Investors are in a risk-off mentality and feel data events have weak risk/reward because any positive event might go up for now but also might get sold off, and any negative event leads to more downside."

Yee acknowledges that there have been some positive moves this year, but there were mostly for smaller-cap biotechs, with market capitalizations under \$500 million.

What's more, even when things have gone well for biotech companies this year, shares haven't risen much, Yee writes. When Yee looked at positive moves after the release of late-stage data by biotechs with a market cap of over \$250 million, he found the average positive move was around 10% in 2022, down from 15% in 2020 and 2021, and 20% in 2018 and 2019.

"This suggests, even when events are positive, there is less appetite, resulting in a lukewarm stock move," Yee writes.

Yee says that it will take more positive news to get the sector moving again. "To drive improved sector performance, we need a string of positive newsflow and upside stock situations for investors to get rewarded and to spur improved sentiment around risk/reward," Yee says.

Whether coming biotech data will provide that positive news remains to be seen. Coming catalysts cited by Yee include data from Adagio Therapeutics (ADGI) on a drug to treat and prevent Covid 19, and data on a nonalcoholic steatohepatitis treatment from Intercept Pharmaceuticals (ICPT).

Write to Josh Nathan Kazis at josh.nathan.kazis@barrons.com

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IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)	
)	
Petitioner,	)	CASE NO. ST-2016-DI-00166
)	
vs.	)	ACTION FOR DIVORCE
)	
VALERIE EVANS-FREKE,)	
)	
Respondent.)	
_____)	

EXHIBIT 4

**Morgan Stanley, “ADC Recent Trading Has
Correlated Closing with the Broader Biotech Index”**



Morgan Stanley

ADC Recent Trading Has Correlated Closely with the Broader Biotech Index

- Over the last six months, ADC shares have traded down (30%), mirroring the performance of the XBI, which is down (29%).
- Upcoming catalysts:
 - Ongoing: Zynlonta launch updates
 - 1H22: Initiate randomized portion of Phase 3 LOTIS-5 trial
 - 1H22: Report preliminary results for Phase 2 trial in HL for Cami
 - 1H22: Initiate Phase 1 combination study for mipasetamab uzopirine

ADC Therapeutics Share Price Performance Since IPO ⁽¹⁾

Indexed to ADC IPO Price (\$19 / Share)



7/6/2020: FDA lifted partial clinical hold on Phase 2 trial of Cami

3/18/2021: Announced commercial medical affairs, CMC and support functions for potential ZYNLONTA approval and completed enrollment for Cami pivotal Phase 2 trial

4/23/2021: Announced FDA approval of Lonca in relapsed or refractory diffuse large b-cell lymphoma

8/18/2021: Announced validation of marketing authorization application by the European Medicines Agency for ZYNLONTA

Valuation Summary ⁽¹⁾

Capitalization	Current vs %
Share Price	\$15.69
52 Week High (1/2/22)	\$34.48 (54%)
52 Week Low (1/2/22)	\$15.69 0%
May 2020 IPO	\$19.00 (17%)
September 2020 Follow-on	\$34.00 (54%)

Equity and Aggregate Value

Equity Value	1.214
(-) Debt	14.2
(-) Cash	2.4
Aggregate Value	53.1

ADC THERAPEUTICS

Note: Market data as of 1/20/2022

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April 25, 2022 09:13 PM
ST-2016-DI-00166
TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,

Petitioner,

vs.

VALERIE EVANS-FREKE,

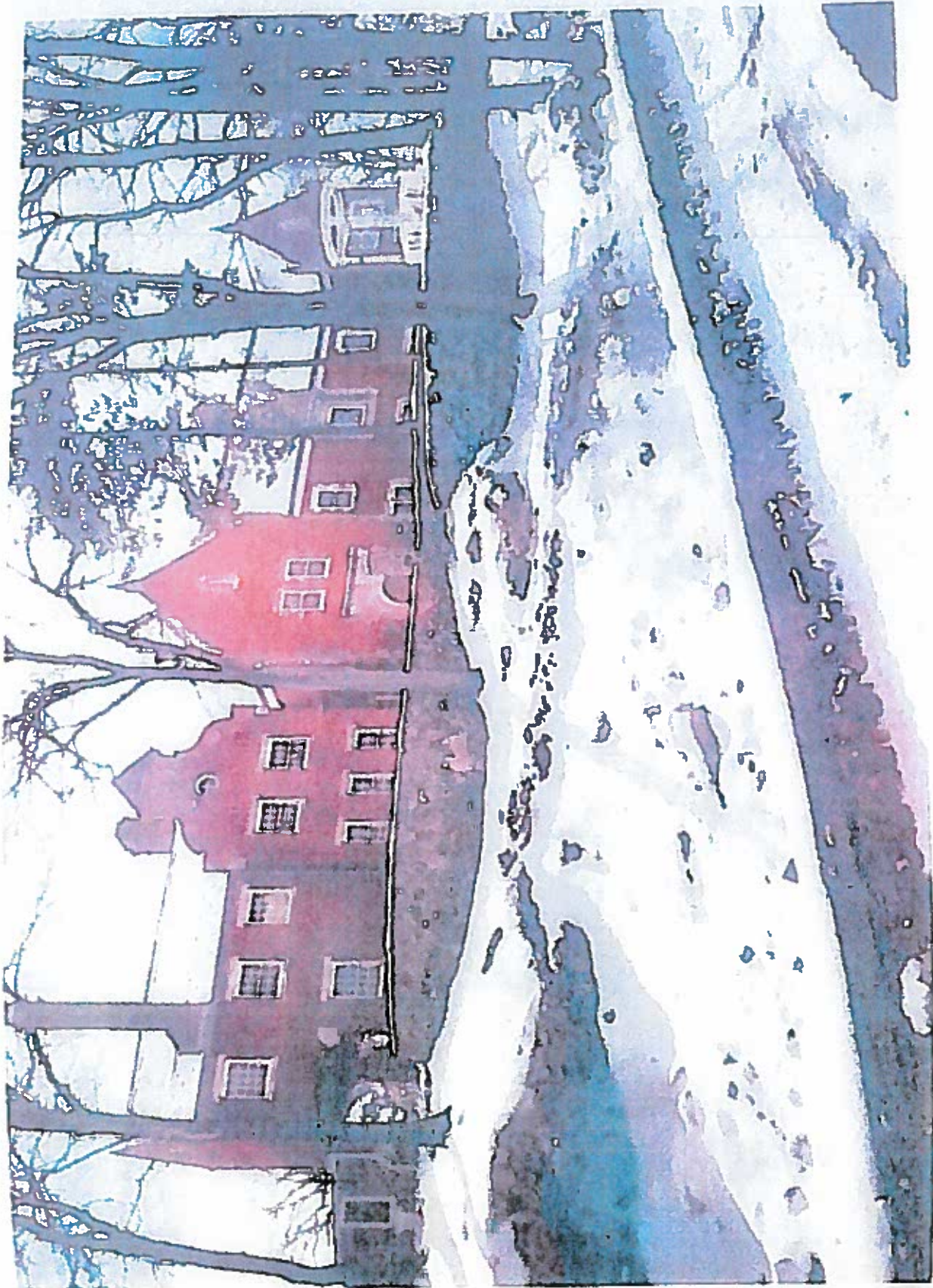
Respondent.

CASE NO. ST-2016-DI-00166

ACTION FOR DIVORCE

EXHIBIT 5

Photographs of Tuxedo Park Mansion





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June 10, 2022 10:55 AM
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TAMARA CHARLES
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IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)	
)	
Petitioner,	)	CASE NO. ST-2016-DI-00166
)	
vs.	)	ACTION FOR DIVORCE
)	
VALERIE EVANS-FREKE,)	
)	
Respondent.)	
_____)	

**MOTION TO REFER GREGORY COWHEY AND RSM US LLP TO THE
APPROPRIATE AUTHORITIES FOR UNAUTHORIZED PRACTICE OF LAW AND
PUBLIC ACCOUNTING WITHOUT A LICENSE AND PROHIBIT FURTHER
INVOLVEMENT WITH THIS CASE.**

Petitioner Stephen Evans-Freke ("Stephen"), through his undersigned counsel, respectfully submits this Motion to Refer Gregory Cowhey ("Mr. Cowhey") and RSM US LLP ("RSM") to the Appropriate Authorities for Unauthorized Practice of Law and Public Accounting Without License And Prohibit Further Involvement With This Case. In support, Stephen states as follows:

I. BACKGROUND

1. On March 11, 2022, Respondent Valerie Evans-Freke ("Valerie") filed an Emergency Motion for *Pendente Lite* Support, Expert Forensic Accountant Fees and Costs, and Attorney's Fees and Costs *Pendente Lite* (the "Support Motion"). In the Support Motion, she stated that she "has retained Mr. Gregory Cowhey of RSM US LLP." Id. at p. 20.
2. In the Support Motion, Valerie attached as Exhibit L, the Certification of Gregory Cowhey dated February 28, 2022 (the "February Certification"). In the February Certification, Mr.

Cowhey stated that he would be performing or recommending the following services which are considered the practice of law in the Virgin Islands:

- a. "Through Respondent's Counsel, RSM will serve one of more detailed itemized discovery requests for records on all business, investment, real property, and personal property assets held by either Party that may be the subject of division in the matter at bar." See February Certification at ¶20.
 - b. "... [A]ssist in the taking of such depositions and to identifying areas of inquiry to be pursued during said depositions." See Id. at ¶21.
 - c. "I may recommend to Respondent's Counsel to retain co-counsel to address the business litigation in which Respondent has been involved." Id. at ¶24.
3. On May 12, 2022, Valerie filed a Third Renewed Emergency Motion for Status Quo Order (the "Third Renewed Motion") and included, as Exhibit A, a Verification of Gregory Cowhey (the "May Verification") (the February Certification and May Verification are referred to collectively as the "Cowhey Submissions"). In the May Verification, Mr. Cowhey provided his opinion on discovery, early mediation, and the preparation of discovery requests. Specifically, he made the following statements regarding services that are considered the practice of law in the Virgin Islands:
- a. "As a result of our study of Petitioner's Objection, Petitioner's Affidavit and Petitioner's PFS, Respondent's Counsel requests that I prepare an itemized discovery request of records and things I would need to further review . . ." See May Verification at ¶12.
 - b. "It should be noted that the initial itemized discovery request of RSM is not necessarily the sole and final discovery request. Upon receipt, review and analysis of records and

information produced pursuant to the initial itemized discovery request, RSM would expect to have one, or more, supplemental discovery requests and will need to make direct inquiry, either through depositions conducted by Respondent's Counsel or interviews conducted by your Affiant and the RSM engagement team." Id. at ¶12, fn. 8.

4. Over the course of this case, Valerie has repeatedly referred to Mr. Cowhey as an "accountant" and, in turn, he has held himself out as such. See, e.g., Reply to Opposition to Motion to Present Witness Testimony at p. 1-2 (referring to Mr. Cowhey as a forensic "accountant"); Support Motion at p. 1 (referring to "expert forensic accountant costs and fees").
5. In the Cowhey Submissions, Mr. Cowhey stated that he would be performing or recommending numerous services which are considered the practice of accountancy in the Virgin Islands. For instance, he referred to services that would be fairly considered to be reporting on the financial statements prepared by Stephen and businesses in which he has an ownership interest. In fact, in his May Verification, Mr. Cowhey even included a report of his opinions concerning Stephen's personal financial statement.
6. RSM is referenced in the February Certification as a "public accounting firm in the United States." See February Certification at ¶4. However, based on a review of the Virgin Islands Board of Public Accountancy's directory of firm's holding a CPA license and related web search, there is no listing for any RSM entity in the U.S. Virgin Islands. See, e.g., <https://dlca.vi.gov/boardcertifications/stepscparequirements>; see also Directory of Public Accounting Firms, attached as **Exhibit 1**.

7. On May 16, 2022, counsel for Valerie wrote a letter in which she sets forth numerous discovery requests prepared by Mr. Cowhey and/or RSM. See Letter dated May 16, 2022 (the “May Letter”), attached as **Exhibit 2**.
8. On June 2, 2022, this Court heard testimony from Mr. Cowhey regarding the nature of his proposed services and the services that he has performed to date. This testimony further shows that he intends to engage in the practice of law and accountancy in this territory.
9. Although the transcript of the June 2, 2022 hearing is not yet available, this Court may recall the following testimony:
 - a. Mr. Cowhey testified that he holds no professional licenses issued by a state or territory and is not licensed as a Certified Public Accountant in any jurisdiction.¹
 - b. Mr. Cowhey testified that he is not a licensed attorney in any jurisdiction.
 - c. Mr. Cowhey testified that he is not bound by a professional code of ethics.
 - d. Mr. Cowhey testified regarding his involvement in the discovery process and stated that he could (without involvement of counsel) obtain discovery documents directly from Stephen and/or his staff.
 - i. Valerie’s counsel also informed the Court that this request had been made.
 - e. Mr. Cowhey testified regarding his recommendation that Valerie’s counsel seek the appointment of a special master.
 - f. Mr. Cowhey testified that RSM prepared the document requests that were included in the May Letter.
 - g. Mr. Cowhey testified that he had not reviewed the Rules and Regulations of the Virgin Islands Board of Public Accountancy.

¹ Mr. Cowhey testified that he is a member of professional associations. However, this is different from holding a professional license in a jurisdiction.

10. Based on the law of the Virgin Islands, Mr. Cowhey and RSM have gone far beyond the role of a consulting expert. They are already making decisions about litigation strategy, discovery, and providing accounting opinions. If allowed to practice without a license, Mr. Cowhey and his firm will continue to take even more actions that constitute unauthorized practice of law and accounting.

II. ARGUMENT

A. MR. COWHEY AND RSM HAVE ENGAGED IN THE UNAUTHORIZED PRACTICE OF LAW.

It is critical that only licensed attorneys represent clients. That role cannot be outsourced to a forensic consultant (who is neither an attorney nor an accountant) simply because he has spent a lot of time in court and has a better understanding of numbers. However, that is what Mr. Cowhey and RSM have done in this case and will continue to do going forward. Based on the Cowhey Submissions and Mr. Cowhey's testimony, it is clear that RSM and Mr. Cowhey plan to conduct discovery (directly, without counsel, if allowed to do so) and develop detailed legal strategies for Valerie. This Court should take action now to prevent this continuing unauthorized practice of law.

The practice of law is defined in V.I. Code Ann. Tit. 4, § 443 as "the doing of any act by a person who is not a member in good standing of the Virgin Islands Bar Association for another person usually done by attorneys-at-law in the course of their profession." In a series of decisions, the Supreme Court of the Virgin Islands has addressed what it means to perform acts usually done by attorneys at law. For example, in Matter of Kershaw, 70 V.I. 859, 864 (2019), the Supreme Court of the Virgin Islands held that "the practice of law 'encompasses all matters implicating the rights and remedies of clients.'" See also In Matter of Motylinski, 60 V.I. 621, 649 (2014) ("the practice of law is not limited exclusively to litigation, but encompasses all 'matters implicating the

rights and remedies of clients”). This includes engaging in discovery, preparation of deposition strategy, or directions to file a particular motion. Id.; see also Matter of Jindal for Pro Hac Vice Admission to Virgin Islands Bar, 69 V.I. 942, 950–51 (2018) (finding that the work performed by non-licensed individuals “necessarily exceeded the acts—if any—that could permissibly be performed by a paralegal or secretary” and the “development of case strategy is the type of act that is ‘entrusted to the judgment of licensed attorneys’”); Matter of Petition of Virgin Islands Bar Ass’n, 75 V.I. 393, 404 (2021) (“Of course, as our precedents illustrate, there are a wide variety of activities in which one cannot engage prior to being administered the oath”); In Re Campbell, 59 V.I. 701, 722 (2013) (“[W]hether or not to file particular motions . . . [is] entrusted to the judgment of licensed attorneys”).

In this case, Mr. Cowhey and Valerie’s counsel have made clear that Mr. Cowhey’s advice was the reason she filed a motion requesting the appointment of a special master. Similarly, as evidenced by the statements in his May Verification, Mr. Cowhey’s directions on mediation are also being studiously followed in this case. Indeed, Valerie’s counsel has stated that they will not agree to mediation until Mr. Cowhey says it is okay to do so. As a result, Mr. Cowhey is clearly calling the shots and telling the attorneys how to proceed in every aspect of the case. He is even writing discovery requests. Obviously, this is not acceptable under the standards set forth in Jindal, Kershaw, Motyliniski, and Campbell.

For these reasons, this Court should issue an order prohibiting Mr. Cowhey and RSM from having any further involvement in this case and refer them to the Virgin Islands Attorney General, the Unauthorized Practice of Law Committee, and the Office of Disciplinary Counsel.

B. MR. COWHEY AND RSM HAVE ENGAGED IN THE UNAUTHORIZED PRACTICE OF ACCOUNTING.

Mr. Cowhey is not an “accountant.” Yet, in Valerie’s motions, the Cowhey Submissions, and at the June 2, 2022 hearing, he was referred to as one. The term, “accountant,” has significance in the Virgin Islands. Notably, in 27 V.I.C. § 250j(f)(2), it states:

A person or firm that does not hold a valid certificate or permit issued under sections 250c or 250d of this chapter may not assume or use any title or designation that includes the words ‘accountant’, ‘auditor’, or ‘accounting’, in connection with any other language, including the language of a report, which implies that such person or firm holds such a certificate or permit or has special competence as an accountant or auditor . . .

See also id. at §250j(e) (prohibiting a firm from using “any other title or designation likely to be confused with the titles ‘certified public accountant’ or ‘public accountant’”). Based on section 250j, Mr. Cowhey and RSM should not be holding themselves out as accountants or public accountants in this territory nor should they be earning fees for accounting work related to this litigation. For this reason alone, they should be disqualified and referred to the Board of Public Accountancy for discipline.

However, in addition to the violating the law concerning the use of the foregoing professional titles, RSM and Mr. Cowhey also clearly intend to provide services that require licensure in this jurisdiction. Already, in his May Certification, Mr. Cowhey has provided a “report” on Stephen’s personal financial statements. He even specifically expressed “concern as to the accuracy and reliability.” See May Certification at ¶5.

Since he is not licensed in the Virgin Islands, Mr. Cowhey was legally prohibited from making these types of statements. This is made clear by a review of the applicable statutes. For example, in 27 V.I.C. §250, a report, “when used with reference to financial statements, means an opinion, report, or other form of language that states or implies assurance as to the reliability of

any financial statements and which also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing.” In turn, pursuant to 27 V.I.C. § 250j(a), “[o]nly permittees and individuals who have practice privileges under section 250q of this chapter may issue a report on financial statements of any person, firm, organization, or governmental unit or offer to render or render any attest or compilation service, as defined herein.” Thus, it is clear that only licensed accountants can make statements on the reliability of financial statements and Mr. Cowhey is not licensed in the Virgin Islands (or anywhere for that matter).

The accounting licensure requirements are just as important as the rules prohibiting unauthorized practice of law. The people of the Virgin Islands, including Stephen, expect professionals to adhere to the licensing rules and professional ethics rules. That is why the Supreme Court has steadfastly insisted that professionals follow the rules and has taken a strict position. See, e.g., Jindal, 69 V.I. at 950–51 (in the context of attorney regulation). Unfortunately, Mr. Cowhey and RSM have made clear that they intend to completely ignore the law. Indeed, Mr. Cowhey testified that he had not even bothered to review Virgin Islands law and did not think he needed to do so. Thus, there is good reason for this Court to send a strong message that this type of cavalier behavior and blatant disregard of territorial law is unacceptable.

CONCLUSION

It is rare that an expert witness would ever take on the role of attorney and accountant – particularly when he is unlicensed in either profession. Yet, that is the situation here. Mr. Cowhey and RSM are providing legal advice, reporting on financial statements, and calling the shots in this case. They are even making decisions about when the parties should mediate and how depositions

should be conducted. Of course, this is inappropriate and illegal since it constitutes unauthorized practice of law and accounting.

For these and the other reasons set forth herein, Stephen respectfully requests that this Court enter an order referring Mr. Cowhey and RSM to the appropriate authorities for unauthorized practice of law and accounting and prohibit their further involvement with this case.

Respectfully submitted,

DUDLEY NEWMAN FEUERZEIG, LLP

DATED: June 10, 2022

By: /s/ Justin K. Holcombe
JUSTIN K. HOLCOMBE (V.I. Bar #957)
Law House - 1000 Frederiksberg Gade
St. Thomas, VI 00802-6736
P.O. Box 756
St. Thomas, U.S.V.I. 00804-0756
Telephone: (340) 774-4422
E-Mail: jholcombe@DNFvi.com

LAW OFFICES OF
ANDREW L. CAPDEVILLE, P.C.

Dated: June 10, 2022

By: /s/ Andrew L. Capdeville
ANDREW L. CAPDEVILLE, ESQ.
V.I. Bar No. 206
8000 Nisky Shopping Center, Suite 201
P. O. Box 6576
St. Thomas, VI 00804-6576
Telephone: (340) 774-7784
Facsimile: (340) 774-2737
Email: capdeville@alcvilaw.com

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of June, 2022, a true and exact copy of the foregoing **MOTION TO REFER GREGORY COWHEY AND RSM US LLP TO THE APPROPRIATE AUTHORITIES FOR UNAUTHORIZED PRACTICE OF LAW AND PUBLIC ACCOUNTING WITHOUT A LICENSE AND PROHIBIT FURTHER INVOLVEMENT WITH THIS CASE**, which complies with the page and word limitations set forth in Rule 6-1(e), with the Clerk of the Court with the electronic filing system and served same upon opposing counsel by means of the electronic case filing system addressed to:

Julie German Evert, Esq.
5043 Norre Gade, Ste. 6
St. Thomas, U.S.V.I. 00802
E-Mail: Julievert555@gmail.com

Laura C. Nagi, Esq.
**LAURA CASTILLO NAGI, ATTORNEY
& COUNSELOR AT LAW, PLLC**
5043 Norre Gade, Suite 1
St. Thomas, VI 00802

/s/ Justin K. Holcombe

June 10, 2022 10:55 AM
ST-2016-DI-00166
TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)

Petitioner,)

vs.

VALERIE EVANS-FREKE,

Respondent.)

CASE NO. ST-2016-DI-00166

ACTION FOR DIVORCE

EXHIBIT 1

Directory of Public Accounting Firms

VI BOARD OF PUBLIC ACCOUNTANCY
 DIRECTORY OF PERMITTED CERTIFIED PUBLIC ACCOUNTANTS IN THE US VIRGIN ISLANDS
 as of JUNE 1, 2020

CPA Name	Status	Expire	Juris
ABRAHAM, SHONEVA	ACTIVE	6/30/2020	VI
Bansal, Deepak	ACTIVE	6/30/2020	VI
Benham, Mittie	ACTIVE	6/30/2020	VI
Bonewitz, Mary	ACTIVE	6/30/2020	VI
Brathwaite, Deborahrah	ACTIVE	6/30/2018	VI
Brennan Wiebracht, Joanne	ACTIVE	6/30/2020	VI
Brown, Thomas	ACTIVE	6/30/2020	VI
Browne, Viktor	ACTIVE	6/30/2020	VI
Brugos, Kristen	ACTIVE	6/30/2020	VI
CARSEL, MAUREEN	ACTIVE	6/30/2020	VI
Cave, Elizabeth	ACTIVE	6/30/2020	VI
Collingwood, Theresa	ACTIVE	6/30/2020	VI
Cottrell, James	ACTIVE	6/30/2020	VI
DAVIS, TABATHA	ACTIVE	6/30/2020	VI
DePrimo, Lisa	ACTIVE	6/30/2020	VI
Edgcombe, Lenore	ACTIVE	6/30/2020	VI
Engerman, John	ACTIVE	6/30/2020	VI
Eschallie, Eustace	ACTIVE	6/30/2020	VI
Freth, Daniel	ACTIVE	6/30/2020	VI
Gibbons, Susan	ACTIVE	6/30/2020	VI
Gibson, Katherine	ACTIVE	6/30/2020	VI
Hayden, James	ACTIVE	6/30/2020	VI
Henry, Wendy	ACTIVE	6/30/2020	VI
Hodge, Janice	ACTIVE	6/30/2020	VI
Hodges, Billie	ACTIVE	6/30/2020	VI
Jackson, Jonathan	ACTIVE	6/30/2020	VI
Jaffe, Ira	ACTIVE	6/30/2020	VI
Jeremiah, Denise	ACTIVE	6/30/2020	VI
John-Baptiste, Raquel	ACTIVE	6/30/2020	VI
Joseph, Lennox	ACTIVE	6/30/2020	VI
Kemp, Larry	ACTIVE	6/30/2020	VI
Kulpers, Kelly	ACTIVE	6/30/2020	VI

CPA Name	Status	Expire	Jurisdiction
Lane, Stephanie	ACTIVE	6/30/2020	VI
Lee, Joel	ACTIVE	6/30/2020	VI
Lucht, Marilyn	ACTIVE	6/30/2020	VI
Marciano, Luis	ACTIVE	6/30/2020	VI
McDowell, Michael	ACTIVE	6/30/2020	VI
Mendelsohn, Eric	ACTIVE	6/30/2020	VI
Neithrop, Tsajai	ACTIVE	6/30/2020	VI
Nibbs, Marilyn	ACTIVE	6/30/2020	VI
Ondina, Arturo	ACTIVE	6/30/2020	VI
Ozomelam, Angele	ACTIVE	6/30/2020	VI
Samuel-Duterville, Yolander	ACTIVE	6/30/2020	VI
Scherrer Callet, Fernando	ACTIVE	6/30/2020	VI
Schwartz, Steven	ACTIVE	6/30/2020	VI
Sheets, James	ACTIVE	6/30/2020	VI
Singletton, Thomas	ACTIVE	6/30/2020	VI
SMITH, LESLIE A	ACTIVE	6/30/2020	VI
Soto, Joseph	ACTIVE	6/30/2020	VI
Thompson, Donald	ACTIVE	6/30/2020	VI
Tison, Morrel	ACTIVE	6/30/2020	VI
Torres, Orlando	ACTIVE	6/30/2020	VI
Tsao, Sean	ACTIVE	6/30/2020	VI
Tuitt Mills, Ethlyn	ACTIVE	6/30/2020	VI
Upson, Robert	ACTIVE	6/30/2020	VI
Valentin, Edgardo	ACTIVE	6/30/2020	VI
Vargas, Irilia	ACTIVE	6/30/2020	VI
WEBSTER, SANDRA	ACTIVE	6/30/2020	VI
Weissel-Bailey, Joyce	ACTIVE	6/30/2020	VI
Wessing, DeAnn	ACTIVE	6/30/2020	VI
Willie, George	ACTIVE	6/30/2020	VI
Wyper, David	ACTIVE	6/30/2020	VI

MEMBER DIRECTORY

The member directory provides a list of ALL ACTIVE US Virgin Island CPA members.

You may verify the status of a CPA and CPA Firm at <https://cpaverily.org/>

ALL CPAs and CPA Firms must be permitted through DLCA and NASBA at their respective websites.
Additionally, to renew your business license and your permit cards you must do so on both DLCA's and NASBA's website at www.dlca.vi.gov and www.nasba.org.

All CPA permit cards and CPA Firms licenses expire annually on June 30th.

Pursuant to the VIC Ann. Title 27, Chapter 5A, Sec. 250, all certified public accountants and certified public accountant firms located and licensed outside the Territory of the Virgin Islands as a condition precedent to carrying on or engaging in professional services within the Territory, each must register and hold a valid permit issued by the Virgin Islands Board of Public Accountancy within the Department of Licensing and Consumer Affairs,

If any out-of-territory CPA or CPA firm is found engaging in professional services not incidental or isolated in violation of the provisions in Title 27 of the Virgin Islands Code, the Board may cause appropriate proceedings and fines to be brought against the individual or firm.

The directory does not include delinquency history or outstanding delinquencies matters.

VI BOARD OF PUBLIC ACCOUNTANCY

Firm Name	Managing Partner	Status	Expire	Juris
Accounting Strategies Group, PC	Vernor Julia / Brennan, Wiesbrach, Leanne	ACTIVE	6/30/2020	VI
ADO USA, LLP	Hyden, James	ACTIVE	6/30/2020	VI
Bentham & Hood, Inc.	Bodiga, Jantico / Benford, Wittle	ACTIVE	6/30/2020	VI
Burt W. Smith Jr. & Co., Chartered	Walker, George	ACTIVE	6/30/2020	VI
BNP Paribas	Henry, Wendy	ACTIVE	6/30/2020	VI
Efficient Capital Markets, LLC	Fisher, Daniel	ACTIVE	6/30/2020	VI
Conner Mackin PC	Schwartz, Steven	ACTIVE	6/30/2020	VI
Collingwood & Associates, PC	Collingwood, Shireen	ACTIVE	6/30/2020	VI
DeWitt & King, P.A.	Wessling, Debra	ACTIVE	6/30/2020	VI
DePaulo & Partners, LLC	Bodnar, Douglas	ACTIVE	6/30/2020	VI
DeVito (Viggo) Brandy, LLC	Loew, Elizabeth	ACTIVE	6/30/2020	VI
Ernst & Young Global Limited	Doddin, Arden	ACTIVE	6/30/2020	VI
Ernst & Young Global Limited	Mathews, Brian	ACTIVE	6/30/2020	VI
Ernst & Young Global Limited	Mytham, Shoshana	ACTIVE	6/30/2020	VI
FLH (Hawaii) LLC	Jackson, Jonathan	ACTIVE	6/30/2020	VI
Flower Jackson, PC	Shelley, James	ACTIVE	6/30/2020	VI
James P. Shields, CPA	Werner, Sally / Jones	ACTIVE	6/30/2020	VI
Joyce Wendel Miller, PC	John Baptist, Reginal	ACTIVE	6/30/2020	VI
Kaschowitz, LLP	Torres, Orlando	ACTIVE	6/30/2020	VI
KEMURA	Soto, Joseph	ACTIVE	6/30/2020	VI
Kucera, Jeff L., Company, PC	Ward, Larry	ACTIVE	6/30/2020	VI
Larry E. Krupp, PC	Joseph, Lamont	ACTIVE	6/30/2020	VI
Lebowitz & Associates, PC	McGuinnis, Lenore	ACTIVE	6/30/2020	VI
Lebowitz & Associates, CPA P.C.	Santini, Leslie	ACTIVE	6/30/2020	VI
LEIBER & SMITH, CPA	Cassell, Margaret	ACTIVE	6/30/2020	VI
MLA GARRETT, PC	Henry, Morris G.	ACTIVE	6/30/2020	VI
Mazzoli & Milton, CPA, P.C.	Singleton, Thomas	ACTIVE	6/30/2020	VI
Thomas B. Simpson, CPA	Brown, Victor	ACTIVE	6/30/2020	VI
Deane & Deane, P.A., LLC				

FIAMS DIRECTORY

The firms directory provides a list of ALL ACTIVE firms registered with VI Board of Public Accountancy that are in good standing.

You may verify the status of a CPA and CPA Firm at <https://kpaaverify.org/>

ALL CPAs and CPA Firms must be permitted through DLCA and NASBA at their respective websites. Additionally, to renew your business license and your permit cards you must do so on both DLCA's and NASBA's website at www.dlca.vt.gov and www.nasba.org.

All CPA permit holders and CPA firms licenses expire annually on June 30th

Pursuant to the VIC Ann. Title 27, Chapter 5A, Sec. 250, all certified public accountants and certified public accountant firms located and licensed outside the Territory of the Virgin Islands as a condition precedent to carrying on or engaging in professional services within the Territory, each must register and hold a valid permit issued by the Virgin Islands Board of Public Accountancy within the Department of Licensing and Consumer Affairs.

If any out-of-territory CPA or CPA firm is found engaging in professional services not incidental or isolated in violation of the provisions in Title 27 of the Virgin Islands Code, the Board may cause appropriate proceedings and fines to be brought against the individual or firm.

The directory does not include delinquency history or outstanding delinquencies matters.

FILED

June 10, 2022 10:55 AM

ST-2016-DI-00166

TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)	
)	
Petitioner,	)	CASE NO. ST-2016-DI-00166
)	
vs.	)	ACTION FOR DIVORCE
)	
VALERIE EVANS-FREKE,)	
)	
Respondent.)	
_____)	

EXHIBIT 2

Letter dated May 16, 2022

LAW OFFICE OF JULIE GERMAN EVERT

5043 Norre Gade, Suite #6

St. Thomas, VI 00802

Phone: (340) 774-2830

JulieEvert555@gmail.com

May 16, 2022

Via Email

hfeuerzeig@dtflaw.com

jholcombe@dnfvi.com

capdeville@alcvilaw.com

Henry L. Feuerzeig, Esq.

Justin K. Holcombe, Esq.

Attorneys for the Petitioner

Dudley, Newman, Feuerzeig, LLP

P.O. Box 756

St. Thomas, VI 00802

Andrew L. Capdeville, Esquire

Attorneys for Petitioner

8000 Nisky Center, Suite 201

St. Thomas, VI 00802

**RE: Request for supporting documents concerning Stephen Evans-Freke's
Personal Financial Statements**

Gentlemen:

Although your client objected to our retaining Mr. Gregory Cowhey as a forensic accountant, I believe you understand that the parties' assets are complicated, and my Firm does not employ someone who is expert in reviewing intricate Personal Financial Statements of this nature. Pursuant to the terms reached in the Scheduling Conference, I have below documents that Mr. Cowhey needs in order to verify most of the items in the Personal Financial Statements.

Please understand that further documentation will be required, but Mr. Cowhey believes that the list below is the first step to verify the information. We are waiting for your

response as to Mr. Cowhey's suggestion as to how to keep the financial information secure. Here is the list of information we need:

1. Cash On Hand
 - a. Itemized accounting of all savings, checking, investment, brokerage and similar type of accounts maintained by Stephen Evans-Freke ("Petitioner") during the period January 1, 2012 to April 30, 2022.
 - b. Periodic (i.e., monthly, quarterly, annual) statements for all savings, checking, investment, brokerage and similar type of accounts maintained by Stephen Evans-Freke ("Petitioner") during the period January 1, 2012 to April 30, 2022.
2. 3-Month GP Distributions
 - a. Itemized accounting of the partnerships from which the distributions are due and the manner in which the GP distributions are calculated for the period January 1, 2020 to April 30, 2022.
 - b. Limited Partnership Agreement for each limited partnership from which Petitioner is due Distributions.
3. Celtic Pharma Holdings GP / Management
 - a. All appraisals evidencing the value of Petitioner's GP and LP interest in Celtic Pharma Holdings as of December 31, 2012 and 2013.
 - b. Accounting of any/all distributions, liquidating or otherwise, from Celtic Pharma Holdings that caused a decrease in the value from \$6,500,000 as of December 31, 2012 to \$616,549 as of December 31, 2013 and to \$0 as of December 31, 2014.
 - c. Limited Partnership Agreement for Celtic Pharma Holdings.
 - d. Income statements and balance sheets for Celtic Pharma Holdings for the years ended December 31, 2010 to 2014, including the capitalization table as of each period end, the distributions paid to all partners, general and limited, and the source of funds for distributions.
 - e. If assets held by Celtic Pharma Holdings were liquidated or sold, all transaction documents in connection with said transaction such as confidential offering memorandum, purchase/sale agreement, flow of funds statement and the like.
 - f. Itemized accounting of the distributions Petitioner received from Celtic Pharma Holdings and into what accounts or other investments the funds were used.
4. ADC Therapeutics
 - a. It appears that Petitioner holds 4,795 shares of this US publicly traded stock. Please confirm the number of shares held, and produce share certificates. Document the services rendered or closely held interest held that resulted in Petitioner becoming the owner of the ADCT shares.
 - b. Identify the account(s) in which the ADCT shares are custodied/held.
5. Auvon Therapeutics GP Limited – Management Company Carried Interest

- a. Annual audited financial statements, which we understand are prepared by PricewaterhouseCoopers ("PwC"), for the years ended December 31, 2012 to 2021 and the quarter ended March 31, 2022.
 - b. Limited Partnership Agreement for Auvén Therapeutics.
 - c. All appraisals of Auvén Therapeutics, or any of its portfolio holdings, which we understand are prepared by KPMG, for the years ended December 31, 2012 to 2021 and the quarter ended March 31, 2022.
 - d. Itemized accounting of the waterfall calculations, or other similar type of calculations, that results in the carried interest due Petitioner for the years ended December 31, 2012 to 2021 and the quarter ended March 31, 2022.
 - e. Itemized accounting of any/all distributions paid to Petitioner on account of the GP carried interest at any time during the years ended December 31, 2012 to 2021 and the quarter ended March 31, 2022.
 - f. Itemized accounting of the distributions Petitioner received from Auvén Therapeutics and into what accounts or other investments the funds were used.
6. Venrock Entrepreneurs Funds
- a. This area of records requests covers LP, I, II, III and IV.
 - b. Copy of the limited partnership agreement for all Funds and any amendments thereto.
 - c. Copy of all appraisals of each Fund or the portfolio holdings held in each Fund.
 - d. Copy of the annual audited financial statements for each Fund for each year in which Petitioner held an interest in each Fund.
 - e. Itemized accounting of the distributions Petitioner received from each Fund and into what accounts or other investments the funds were used.
 - f. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into each Fund.
7. Switt Swoo, Inc.
- a. Shareholders agreement and any amendments thereto.
 - b. Annual financial statements for the years ended December 31, 2012 to 2021 and the quarter ended March 31, 2022.
 - c. Itemized accounting of the distributions Petitioner received from Switt Swoo, Inc. and into what accounts or other investments the funds were used.
 - d. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Switt Swoo, Inc.
8. Switt Swoo, LLC
- a. Operating agreement and any amendments thereto.
 - b. Annual financial statements for the years ended December 31, 2012 to 2021 and the quarter ended March 31, 2022.

- c. Itemized accounting of the distributions Petitioner received from Switt Swoo, LLC and into what accounts or other investments the funds were used.
 - d. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Switt Swoo, LLC.
- 9. Water Island Development, LLC
 - a. Operating agreement and any amendments thereto.
 - b. Annual financial statements for the years ended December 31, 2014 to 2021 and the quarter ended March 31, 2022.
 - c. Itemized accounting of the distributions Petitioner received from Water Island Development, LLC and into what accounts or other investments the funds were used.
 - d. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Water Island Development, LLC.
 - e. Copies of any/all appraisals of Water Island Development, LLC and/or the assets held by this entity.
 - f. Itemized accounting with regards to the purchase/sale of any interest in Water Island Development, LLC by and between the entity and an investor or between investors, if any, during the period January 1, 2014 to April 30, 2022.
- 10. Castle Freke Farms, Ltd.
 - a. Operating agreement and any amendments thereto.
 - b. Annual financial statements for the years ended December 31, 2019 to 2021 and the quarter ended March 31, 2022.
 - c. Itemized accounting of the distributions Petitioner received from Castle Freke Farms, Ltd. and into what accounts or other investments the funds were used.
 - d. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Castle Freke Farms, Ltd.
 - e. Copies of any/all appraisals of Castle Freke Farms, Ltd. and/or the assets held by this entity.
 - f. Description of the operations of the entity.
 - g. Organizational chart of all employees and area(s) of responsibility.
 - h. Marketing plan(s), projections for future performance and/or confidential memorandum as to the nature and history, areas of operations, key competitors, and plans for the future conduct of operations.
 - i. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Castle Freke Farms, Ltd.
- 11. Castle Freke Distillery, Ltd.
 - a. Operating agreement and any amendments thereto.
 - b. Annual financial statements for the years ended December 31, 2020 to 2021 and the quarter ended March 31, 2022.

- c. Itemized accounting of the distributions Petitioner received from Castle Freke Distillery, Ltd. and into what accounts or other investments the funds were used.
- d. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Castle Freke Distillery, Ltd.
- e. Copies of any/all appraisals of Castle Freke Distillery, Ltd. and/or the assets held by this entity.
- f. Description of the operations of the entity.
- g. Organizational chart of all employees and area(s) of responsibility.
- h. Marketing plan(s), projections for future performance and/or confidential memorandum as to the nature and history, areas of operations, key competitors, and plans for the future conduct of operations.
- i. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Castle Freke Distillery, Ltd.

12. Aero MD (Air Ambulance Caribbean, Inc.)

- a. Shareholders agreement and any amendments thereto.
- b. Annual financial statements for the years ended December 31, 2014 to 2021 and the quarter ended March 31, 2022.
- c. Itemized accounting of the distributions Petitioner received from Aero MD and into what accounts or other investments the funds were used.
- d. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Aero MD.
- e. Copies of any/all appraisals of Aero MD and/or the assets held by this entity.
- f. Itemized accounting with regards to the purchase/sale of any interest in Aero MD by and between the entity and an investor or between investors, if any, during the period January 1, 2014 to April 30, 2022.

13. Isolde, LLC

- a. Operating agreement and any amendments thereto.
- b. Annual financial statements for the years ended December 31, 2012 to 2017.
- c. Itemized accounting of the distributions Petitioner received from Isolde, LLC and into what accounts or other investments the funds were used.
- d. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Isolde, LLC.
- e. Copies of any/all appraisals of Isolde, LLC and/or the assets held by this entity.
- f. Itemized accounting with regards to the purchase/sale of any interest in Isolde, LLC by and between the entity and an investor or between investors, if any, during the period January 1, 2012 to December 31, 2018.
- g. Itemized accounting of the distributions Petitioner received from Isolde, LLC and into what accounts or other investments the funds were used.
- h. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Isolde, LLC.

14. Rosetta Capital Limited

- a. Shareholders agreement and any amendments thereto.
- b. Annual financial statements for the years ended December 31, 2012 to 2021 and the quarter ended March 31, 2022.
- c. Itemized accounting of the distributions Petitioner received from Rosetta Capital Limited and into what accounts or other investments the funds were used.
- d. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Rosetta Capital Limited.

15. Illumina

- a. Shareholders agreement and any amendments thereto.
- b. Annual financial statements for the years ended December 31, 2012 to 2016.
- c. Itemized accounting of the distributions Petitioner received from Illumina and into what accounts or other investments the funds were used.
- d. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Illumina.

16. Sonovation (Authorizer Technologies, Inc.)

- a. Shareholders agreement and any amendments thereto.
- b. Annual financial statements for the years ended December 31, 2012 to 2020.
- c. Itemized accounting of the distributions Petitioner received from Sonovation and into what accounts or other investments the funds were used.
- d. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Sonovation.

17. Cibus Global, Ltd.

- a. Shareholders agreement and any amendments thereto.
- b. Annual financial statements for the years ended December 31, 2012 to 2021 and the quarter ended March 31, 2022.
- c. Itemized accounting of the distributions Petitioner received from Cibus Global, Ltd. and into what accounts or other investments the funds were used.
- d. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into Cibus Global, Ltd.
- e. Copies of any/all appraisals of Cibus Global, Ltd. and/or the assets held by this entity.
- f. Itemized accounting with regards to the purchase/sale of any interest in Cibus Global, Ltd. by and between the entity and an investor or between investors, if any, during the period January 1, 2012 to April 30, 2022.

18. Opna Immuno-Oncology SA

- a. Offering Memorandum, Subscription Agreement and Operating/Partnership/Shareholders Agreement for this investment.

- b. Source (i.e., accounts) from which the initial capital contribution in 2021 was made.
 - c. Annual financial statements and operating results from inception of Petitioner's investment to March 2022.
- 19. Livby, Inc. (Yorick E-F's Start-up)
 - a. Offering Memorandum, Subscription Agreement and Shareholders Agreement for this investment.
 - b. Source (i.e., accounts) from which the initial capital contribution in 2020 and 2021 were made.
 - c. Annual financial statements and operating results from inception of Petitioner's investment to March 2022.
 - d. Description of the operations of the entity, organizational chart, product/services provided by the entity and any/all projections of future performance.
- 20. International Bioscience Managers Limited
 - a. Shareholders agreement and any amendments thereto.
 - b. Annual financial statements for the years ended December 31, 2012 to 2021 and the quarter ended March 31, 2022.
 - c. Itemized accounting of the distributions Petitioner received from International Bioscience Managers Limited and into what accounts or other investments the funds were used.
 - d. Source of funds used by Petitioner to make the initial, and any subsequent, capital contributions into International Bioscience Managers Limited.
 - e. Itemized accounting of the distributions Petitioner received from International Bioscience Managers Limited and into what accounts or other investments the funds were used.
- 21. GCA
 - a. Itemized accounting of the distributions Petitioner received from International GCA during the years 2012 to 2015 and into what accounts or other investments the funds were used.
- 22. Cabrita Lot 6D-1
 - a. Offering Memorandum, Subscription Agreement and Shareholders Agreement for this investment.
 - b. Source (i.e., accounts) from which the initial capital contribution in 2022 was made.
 - c. Description of the operations of the entity, organizational chart, product/services provided by the entity and any/all projections of future performance.
- 23. Crows Nest – 120 acre Coastal Estate
 - a. Deed and title to the property
 - b. Purchase agreement in 1997 and sale agreement in 2015, evidencing all specifics with respect to the acquisition, holding and disposition of this plot of real property.

- c. Copies of any/all appraisals of this plot of real property prepared at any time between 2012 and 2017.

24. Crows Nest – 218 acre Undeveloped Land

- a. Deed and title to the property
- b. Purchase agreement in 1999 evidencing all specifics with respect to the acquisition, holding and disposition of this plot of real property.
- c. Copies of any/all appraisals of this plot of real property prepared at any time between 2012 and March 2022.
- d. Itemized accounting of all costs/expenses associated with the holding and the account(s) from which said operating expenses are sourced.

25. Tuxedo Park, NY Residence

- a. This property is referred to in Petitioner's personal financial statements as follows:
 - i. 24,000 sf mansion on 26 acres
 - ii. 17,000 sf mansion on 26 acres
 - iii. 17,000 sf mansion on 36 acres
- b. Deed and title to the property
- c. Purchase agreement in 1999 evidencing all specifics with respect to the acquisition, holding and disposition of this plot of real property.
- d. Copies of any/all appraisals of this plot of real property prepared at any time between 2012 and March 2022.
- e. Itemized accounting of all costs/expenses associated with the holding and the account(s) from which said operating expenses are sourced.
- f. Copies of any/all appraisals of this residential real property prepared at any time between 2012 and the current date.
- g. Itemized accounting of any/all capital improvements made to the property since date the property was acquired and the source of the funds for such improvements.

26. Castle Freke

- a. This property is referred to in Petitioner's personal financial statements as follows:
 - i. on 70 acres
 - ii. on 80 acres
- b. Deed and title to the property
- c. Purchase agreement in 1999 evidencing all specifics with respect to the acquisition, holding and disposition of this plot of real property.
- d. Copies of any/all appraisals of this plot of real property prepared at any time between 2012 and March 2022.
- e. Itemized accounting of all costs/expenses associated with the holding and the account(s) from which said operating expenses are sourced.
- f. Copies of any/all appraisals of this residential real property prepared at any time between 2012 and the current date.

- g. Itemized accounting of any/all capital improvements made to the property since date the property was acquired and the source of the funds for such improvements.

27. Rathbarry Castle on 34 Acres

- a. Deed and title to the property
- b. Purchase agreement in 2003 evidencing all specifics with respect to the acquisition, holding and disposition of this plot of real property.
- c. Copies of any/all appraisals of this plot of real property prepared at any time between 2012 and March 2022.
- d. Itemized accounting of all costs/expenses associated with the holding and the account(s) from which said operating expenses are sourced.
- e. Copies of any/all appraisals of this residential real property prepared at any time between 2012 and the current date.
- f. Itemized accounting of any/all capital improvements made to the property since date the property was acquired and the source of the funds for such improvements.

28. South Lodge, Rathbarry Castle

- a. Deed and title to the property
- b. Purchase agreement in 2012 evidencing all specifics with respect to the acquisition, holding and disposition of this plot of real property.
- c. Copies of any/all appraisals of this plot of real property prepared at any time between 2012 and March 2022.
- d. Itemized accounting of all costs/expenses associated with the holding and the account(s) from which said operating expenses are sourced.
- e. Copies of any/all appraisals of this residential real property prepared at any time between 2012 and the current date.
- f. Itemized accounting of any/all capital improvements made to the property since date the property was acquired and the source of the funds for such improvements.

29. Connally Farm

- a. Deed and title to the property
- b. Purchase agreement in 2016 evidencing all specifics with respect to the acquisition, holding and disposition of this plot of real property.
- c. Copies of any/all appraisals of this plot of real property prepared at any time between 2016 and March 2022.
- d. Itemized accounting of all costs/expenses associated with the holding and the account(s) from which said operating expenses are sourced.
- e. Copies of any/all appraisals of this residential real property prepared at any time between 2016 and the current date.
- f. Itemized accounting of any/all capital improvements made to the property since date the property was acquired and the source of the funds for such improvements.

30. Sea View Ahaglaslin Farm

- a. Deed and title to the property

- b. Purchase agreement in 2017 evidencing all specifics with respect to the acquisition, holding and disposition of this plot of real property.
- c. Copies of any/all appraisals of this plot of real property prepared at any time between 2017 and March 2022.
- d. Itemized accounting of all costs/expenses associated with the holding and the account(s) from which said operating expenses are sourced.
- e. Copies of any/all appraisals of this residential real property prepared at any time between 2017 and the current date.
- f. Itemized accounting of any/all capital improvements made to the property since date the property was acquired and the source of the funds for such improvements.

31. Deposit on Garden House

- a. Deed and title to the property
- b. Purchase agreement in 2020 evidencing all specifics with respect to the acquisition, holding and disposition of this plot of real property.
- c. Copies of any/all appraisals of this plot of real property prepared at any time between 2020 and March 2022.
- d. Itemized accounting of all costs/expenses associated with the holding and the account(s) from which said operating expenses are sourced.
- e. Copies of any/all appraisals of this residential real property prepared at any time between 2020 and the current date.
- f. Itemized accounting of any/all capital improvements made to the property since date the property was acquired and the source of the funds for such improvements.

32. Six Contiguous Coastal Building Lots

- a. Purchase agreements in 1984-1987 evidencing all specifics with respect to the acquisition, holding and disposition of this plot of real property.
- b. Copies of any/all appraisals of this plot of real property prepared at any time between 2012 and 2014.
- c. Itemized accounting of all costs/expenses associated with the holding and the account(s) from which said operating expenses are sourced.
- d. Itemized accounting of any/all capital improvements made to the property since date the property was acquired and the source of the funds for such improvements.
- e. Itemized accounting of the funds realized either from the development of the building lots or sale of the building lots and the account(s) into which funds realized from development or disposition of the building lots.

33. Personal Property

- a. All appraisals for personal property, and purchase documents concerning personal property including but not limited to art, jewelry, couture clothing and handbags, vehicles, livestock and horses;
- b. Copies of property insurance documents for the last 15 years that contain riders for personal property;

- c. Sales and title documents to all vehicles used by Petitioner, his staff anywhere located, and/or people whom he cares for, such as Vernique and Tristan and Barbara Birt and her children;
- d. Inventories, storage and shipping receipts for all personal property removed from Tuxedo Park home in the past 15 years.
- e. Inventory and receipts for all personal property located inside any residence, including but not limited to Castles, which are controlled in whole or in part, by Petitioner.
- f. Inventory and receipts for all items purchased for Vernique and Tristan in excess of \$1,000.00.
- g. Itemization of all monies paid to all persons employed by you and/or any entity in which you maintain sole or partial control. This request is limited to persons employed in any capacity, either as an employee or independent contractor, at any home, castle, villa, apartment or cottage you own either personally or in Trust, including staff at each home, located in Ireland, Paris, New York and St. Thomas or anywhere else. This request is not asking for names of business associates, secretaries etc. unless those persons are paid for performing work connected with any of your homes, castles, villas, apartments or cottages.
- h. Provide an annual itemization of money spent on behalf of Vernique and Tristan for the past 12 years.
- i. Present Location of all personal property removed from Tuxedo Park Home. If any personal property has been sold, details, including name of buyer, auction house, and sales and commission paperwork.
- j. If any personal property has been donated, provide the name of the donee, the date of said donation, the value provided by Petitioner for each donation, and provide the paperwork for each donation.
- k. List of all gifts given by Petitioner to anyone, anywhere in the past 10 years, in excess of \$500, including but not limited to designer couture clothing and handbags and jewelry. Provide receipts for all gifts in excess of \$500.00, including but not limited to credit card statements and/or receipts from each company. Please make sure to include any commissioned pieces ordered by you.
- l. Please explain why Petitioner lists garden statuary at the Tuxedo Park, NY, and to what this refers, including date of purchase, amount of purchase and from whom each piece was purchased;
- m. Copies of all life insurance policies purchased in the past ten (10) years by Petitioner and/or an entity over which Petitioner maintains some control.

34. Loans

- a. Copies of any/all loan applications submitted to any financial institution that provided financing whether for real property or business assets at any time during the period January 2012 and the current date.

- b. Mortgage statements for the period January 2012 and April 2022 for the following properties
 - i. Crows Nest 12 Acre Coastal Estate (HSBC Bank)
 - ii. Tuxedo Park, NY residence (Deutsche Bank)
 - iii. Castle Freke (Ulster Bank/Capita)
 - iv. Rathbarry Castle (Ulster Bank/Capita)
 - v. Unidentified Real Property (First Community Bank)
- c. Auvén GP Notes
 - i. Copy of the notes
 - ii. Dates/amounts of draws on the notes and repayment on the notes
 - iii. Terms of the notes (i.e., term, interest rate, security/collateral)
- d. Unidentified Notes Payable/ Personal Loan Barbara B/Camden National Bank
 - i. Names of lender and use of funds borrowed
 - ii. Copy of the notes
 - iii. Dates/amounts of draws on the notes and repayment on the notes
 - iv. Terms of the notes (i.e., term, interest rate, security/collateral)

Thank you for your continued cooperation in providing verification of the marital assets.

Sincerely,

/s/

Julie German Evert, Esquire

cc: Ms. Valerie Evans-Freke

FILED

June 10, 2022 10:55 AM

ST-2016-DI-00166

TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,

Petitioner,

vs.

VALERIE EVANS-FREKE,

Respondent.

CASE NO. ST-2016-DI-00166

ACTION FOR DIVORCE

ORDER

This matter is before the court on the motion of Petitioner Stephen Evans-Freke ("Mr. Evans-Freke") to Refer Gregory Cowhey ("Mr. Cowhey") and RSM US LLP ("RSM") to the Appropriate Authorities for Unauthorized Practice of Law and Public Accounting Without License And Prohibit Further Involvement With This Case (the "Motion"). Upon consideration of the Motion, this Court finds that Mr. Cowhey and RSM engaged in the unauthorized practice of law because they, *inter alia*, prepared discovery requests, conducted discovery, and made decisions about litigation strategy and mediation. This Court also finds that Mr. Cowhey and RSM unlawfully engaged in the practice of accounting because, despite their lack of an accounting license in the Virgin Islands, they provided a report on Mr. Evans-Freke's financial statements. Accordingly, good cause having been shown it is hereby

ORDERED that the Motion is **GRANTED**, and it is further;

ORDERED that this matter is hereby **REFERRED** to the Office of Disciplinary Counsel, the Board on Professional Responsibility, the Board on Unauthorized Practice of Law, the Virgin Islands Board of Public Accountancy, and the Virgin Islands Attorney General, for the

purpose of taking any additional action which they may find appropriate with respect to Mr. Cowhey and RSM's conduct in this matter;

ORDERED that Mr. Cowhey and RSM are prohibited from performing further work for Respondent Valerie Evans-Freke or her legal counsel, and it is further;

ORDERED that copies of this ORDER shall be directed to Justin K. Holcombe, Esq., Andrew L. Capdeville, Esq., Laura C. Nagi, Esq., Julie German Evert, Esq., Gregory Cowhey (30 S. 17th St., Suite 710; Philadelphia, PA 19103), RSM US LLP (30 S. 17th St., Suite 710; Philadelphia, PA 19103), the Office of Disciplinary Counsel, the Board on Professional Responsibility, the Board on Unauthorized Practice of Law, the Virgin Islands Board of Public Accountancy, and the Virgin Islands Attorney General.

DATED: June ____, 2022

DEBRA S. WATLINGTON
Judge of the Superior Court
of the Virgin Islands

A T T E S T

Tamara Charles
Clerk of the Court

By: _____ /_____/_____
Deputy Clerk

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

STEPHEN EVANS-FREKE,)	
)	
)	
v.	Petitioner,	
	)	FAMILY NO. ST-2016-DI-00166
)	
VALERIE EVANS-FREKE	)	ACTION FOR DIVORCE
)	
	Respondent.	
)	
)	
)	

**RESPONSE IN OPPOSITION TO MOTION TO REFER
GREGORY COWHEY AND FIRM RSM US LLP TO THE APPROPRIATE
AUTHORITIES FOR UNAUTHORIZED PRACTICE OF LAW AND PUBLIC
ACCOUNTING WITHOUT A LICENSE AND PROHIBIT FURTHER
INVOLVEMENT WITH THIS CASE**

Respondent Valerie Evans-Freke ("Respondent"), by and through undersigned counsel, hereby opposes Petitioner Stephen Evans-Freke's Motion to Refer Gregory Cowhey and Firm RSM US LLP to the Appropriate Authorities for Unauthorized Practice of Law and Public Accounting Without a License and Prohibit Further Involvement with This Case ("Motion to Refer" or "Mot.").

Gregory Cowhey has specialized knowledge and experience in valuing assets. Mr. Cowhey holds a Bachelor of Science degree in Finance and a Master of Business Administration degree in Accounting. Mr. Cowhey is certified by the American Society of Appraisers and the National Association of Certified Valuation Analysts, and applies both organizations' standards in performing his asset valuation services. Mr. Cowhey has been retained in thousands of divorce cases and has particular knowledge and experience in evaluating ultra-high net worth individuals with global asset portfolios.

Mr. Cowhey's involvement in this matter to assist counsel does not exceed the bounds of his role as an expert employed to conduct a valuation of the marital estate and does not impinge on the practices of law or accountancy in the Virgin Islands. Petitioner's spurious claim of improper conduct is a desperate attempt to prevent Respondent from employing the qualified expert of her choice.

I. BACKGROUND

Gregory Cowhey is a principal at the firm RSM US LLP.¹ He has a formal education in finance and accounting.² Mr. Cowhey has provided litigation support in thousands of divorce cases and has provided expert testimony in over 500 divorce matters in numerous jurisdictions in the United States and in Canada.³ Mr. Cowhey's services in those matters are always at the direction of the counsel for the party that engaged him.⁴ Those services primarily include analyzing the financial information of the parties to the litigation in consultation with an attorney for one of the parties.⁵ If requested, he will testify as an expert witness relating to the financial information analyzed and as to the valuation of assets and liabilities of the litigants.⁶

As Mr. Cowhey has previously informed the Court, his services in matrimonial practice such as this one include:

[F]orensic accounting, [which is] sort of a catch all for analyzing historical information to the extent there may be adjustment or tracings to follow the flow of funds or assets between different asset classes within the balance sheet or outside of the asset class from either spouse. It can be preparing income available for support calculations for either temporary alimony during the pendency of an action

¹ Exhibit A, Hearing testimony of Gregory Cowhey on June 2, 2022 ("Cowhey Tr.") at 3:18-20.

² See Exhibit H, Curriculum Vitae of Gregory Cowhey, previously attached as Exhibit A to the February 28, 2022 Certification of Gregory Cowhey, attached as Exhibit L to Respondent's Emergency Motion For Pendente Lite Support, Expert Forensic Accountant Fees And Costs, And Attorney's Fees And Costs Pendente Lite dated March 11, 2022 ("Cowhey CV").

³ Exhibit B, Declaration of Gregory Cowhey ("Cowhey Decl.") at ¶ 1.

⁴ Cowhey Decl. at ¶ 2.

⁵ Id.

⁶ Id.

or post action alimony. It can be tracing of assets both domestically and internationally and both flow of funds both domestically and internationally. On the valuation side it is valuation of closely held businesses, professional practices, professional services firms and intangible assets a varied nature. On the litigation support side, it can be working with counsel to prepare marital balance sheets or financial affidavits, assisting in settlement negotiations and structure and tax advisory in connection with that.⁷

In this case, the services Mr. Cowhey is providing to Respondent are consistent with the services he has provided in the other divorce matters for which he has been engaged.⁸ Mr. Cowhey performs his analytical work at his office in Philadelphia, Pennsylvania.⁹ In performing this same work in cases throughout the United States he has never been accused of, much less found to be, engaging in the practice of law or public accountancy.¹⁰

One common method to obtain the necessary financial information is to have the financial consultants or personnel for the parties consult directly to exchange information. For example, in past engagements, there have been situations in which Mr. Cowhey dealt directly with the opposing party's CFO or financial personnel.¹¹ Those situations are always with the consent and authorization of the parties and their counsel.¹² The purpose of such direct interaction is to allow the financial experts on both sides to effectively and efficiently exchange information necessary for their analysis.¹³ Such direct interaction is always done at the direction of the counsel for the client.¹⁴

⁷ Ex. A, Cowhey Tr. at 9:1-23. Mr. Cowhey further explained forensic accounting when discussing the valuation of Castle Freke: "That's part of what the forensic accounting aspect of this engagement would be was to investigate exactly what was spent, what was it spent on, how was it utilized, and then in conjunction with the real estate appraiser to measure the contribution to value that those investments had." Cowhey Tr. at 93:1-8.

⁸ Ex. B, Cowhey Decl. at ¶ 4.

⁹ Ex. B, Cowhey Decl. at ¶ 3.

¹⁰ Ex. B, Cowhey Decl. at ¶ 5.

¹¹ Ex. B, Cowhey Decl. at ¶ 6.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

In this matter, Mr. Cowhey provided Respondent's counsel with an initial list of documents he believed necessary to begin his analysis.¹⁵ As in other matters in which he has provided counsel with requests for documents, Mr. Cowhey has no final say over what if any discovery requests are ultimately issued by counsel, much less the format of such requests.¹⁶ Here, the record shows that Respondent's *counsel* ultimately sent opposing counsel an informal letter request for the documents that Mr. Cowhey believed necessary for his analysis. Motion to Refer at Exhibit 2.

Mr. Cowhey is not a Certified Public Accountant ("CPA"), nor has he ever held himself out as such.¹⁷ Mr. Cowhey has never conducted an audit or review of an individual's or entity's financial statements.¹⁸ He has never performed attest services relating to an individual's or entity's financials statements.¹⁹ He has never issued a report following any such audit, review or other attest engagement that expresses an opinion or conclusion on the reliability of such financial statements or whether such financial statements were presented fairly in accordance with applicable accounting principles or any other standard.²⁰ Mr. Cowhey's analysis of Petitioner's business and financial information, including any financial statements, is solely to assist Respondent and her counsel in understanding Petitioner's financial position and the value of the marital assets and liabilities, and, if requested, to provide expert testimony on those issues to assist the jury as permitted under Rule 701 of the Virgin Islands Rule of Evidence.^{21, 22}

¹⁵ Ex. B, Cowhey Decl. at ¶ 7.

¹⁶ *Id.*

¹⁷ Ex. B, Cowhey Decl. at ¶ 13.

¹⁸ Ex. B, Cowhey Decl. at ¶ 8.

¹⁹ *Id.*

²⁰ *Id.*

²¹ Ex. B, Cowhey Decl. at ¶ 9.

²² As Respondent stated in her Emergency Motion For Pendente Lite Support, Expert Forensic Accountant Fees And Costs, And Attorney's Fees And Costs Pendente Lite dated March 11, 2022 ("Emergency Motion"), Respondent needed to retain Mr. Cowhey because he has "[e]xtensive knowledge of foreign assets, business valuations, currency exchanges, values, and valuing hard assets such as real property in Ireland, Switzerland, France, and elsewhere . . ." along with "a team of experts."

In Mr. Cowhey's Verification dated May 12, 2022 ("May Verification"), he indicated that he had analyzed Petitioner's personal financial statements ("PFS") and that this analysis raised numerous questions with respect to the value of Petitioner's assets and liabilities.²³ For example, he noted that certain differences over the years in the PFS caused him "grave concern as to the accuracy and reliability and whether there was any hidden motive with the value presentation on a period by period basis."²⁴ [May Verification ¶ 5]. The purpose of that comment was to explain that his analysis of the PFS raised additional unanswered questions and to explain why he felt it necessary for Respondent to obtain more business and financial information from Petitioner.²⁵ Mr. Cowhey was not expressing any assurance on the reliability of such financial statements following an audit, review or other attest engagement, nor was he expressing an opinion on whether such financial statements were presented fairly in accordance with applicable accounting principles or any other standards.²⁶ In particular, Mr. Cowhey explained that, even when full disclosures are made, the practice of "trust and verify" is utilized to discover whether the party "disclosed all the circumstances surrounding the value or liability of that asset."²⁷

Mr. Cowhey also stated that in analyzing Petitioner's financial documents, he was not performing an "attest" engagement like an audit or review (the province of CPAs), and therefore was not bound by any "standard" pertaining to certified public accounting.²⁸ For example, Petitioner's counsel asked if he would apply the Statement on Standards for Accounting and Review Services (SSARS) in analyzing in reviewing Petitioner's financial statements. Cowhey

²³ Ex. B, Cowhey Decl. at ¶ 10.

²⁴ Ex. B, Cowhey Decl. at ¶ 11.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Ex. A, Cowhey Tr. at 62:19-25; 63:1-4.

²⁸ *Id.* at 66:19-25; 67:1-6; 68:1-21.

responded, “No, because this is not performing a review of his financial statements. There’s different standards. They don’t apply in this circumstance.”²⁹ Likewise, when asked if he applied the “standards” of the Public Company Accounting Oversight Board (PCAOB), he responded that the PCAOB “oversee[s] the audit and they make inspections as to auditing that is performed. Since this isn’t an audit I would not be subject to an investigation or subject to a PCAOB review.”³⁰ Rather, Mr. Cowhey confirmed that his asset valuation work utilized standards set by the American Society of Appraisers (ASA) and National Association of Certified Valuation Analysts (NACVA), organizations under which he is certified.³¹

As this testimony illustrates, Mr. Cowhey’s analysis is based on standards governing proper valuation of assets, not auditing or review of financial records. Accordingly, as Mr. Cowhey’s work to date in this matter establishes, any conclusions Mr. Cowhey reaches or opinions he expresses in this matter, whether written or otherwise, will be as to the parties’ financial position and the value of the marital assets and liabilities for purposes of trial preparation. Mr. Cowhey will not express in opinion, report or otherwise any assurance as to the reliability of such financial statements as someone with specialized training (i.e. an audit or attest opinion) or whether any financial statements he has analyzed were presented fairly in accordance with applicable accounting principles or any other public accounting standard.³²

II. Mr. Cowhey is performing the work of a trial consultant; not a lawyer.

Petitioner contends Mr. Cowhey is performing work “usually done by attorneys-at-law in the course of their profession” and therefore engaging in the unauthorized practice of law. Mot.

²⁹ Id. at 68:5-11.

³⁰ Id. at 68:12-21.

³¹ Id. at 69:1-15.

³² Ex. B, Cowhey Decl. at ¶ 12.

at 5. This is transparently false. Mr. Cowhey is performing the usual and customary work of an expert trial consultant who assists attorneys in preparing for trial in areas that require specialized knowledge. This is what trial consultants do. The use of consultants to assist counsel in trial preparation is so routine that rules of civil procedure and evidence are in place to control the scope and limits of one party's discovery of the work of another party's consultant and to control admissibility of an expert's opinions. These rules contemplate consultants preparing materials for counsel as well as having their own "mental impressions, conclusions, opinions, or legal theories" about the case which they may offer to the party confidentially or may reduce to an opinion for the trier of fact. *See e.g.*, V.I. R. Civ. P. 26(b)(3)(B).

Rule 26 specifically provides that opposing parties ordinarily cannot discover "documents and tangible things that are prepared in anticipation of litigation or for trial by or for a party or its representative (including the other party's ...consultant...)." V.I. R. Civ. P. 26(b)(3)(A). This rule envisions experts such as Mr. Cowhey preparing materials to assist counsel with trial preparation. Moreover, the court is required to protect against disclosure of "mental impressions, conclusions, opinions, or legal theories of a party's attorney *or other representative* concerning the litigation." V.I. R. Civ. P. 26(b)(3)(B) (emphasis added). Thus, the rule itself also specifically contemplates and acknowledges that consultants will have "mental impressions, conclusions, opinions, or legal theories" about the case that must be protected. This is not surprising given that experts often formulate opinions on ultimate issues in a case. And, indeed, the evidentiary rules acknowledge that an expert's opinion is not objectionable at trial just because it embraces an ultimate issue. V.I. R. Evid. 704. Of course, not all consulting experts become testifying experts, yet the rules still protect their work product and their mental impressions, conclusions, opinions and legal theories. V.I. R. Civ. P. 26(b)(4)(D) ("Expert Employed Only for Trial Preparation").

Here, Mr. Cowhey has assisted counsel in identifying business and financial documents necessary to ascertain the value of the marital estate. Petitioner focuses on the fact that Mr. Cowhey described his work as “preparing” and “serving” “discovery requests,”³³ work Petitioner contends is usually done by lawyers. However, the fact that Mr. Cowhey described his work using legal nomenclature does not change the nature of the work itself or turn it into the practice of law. As Shakespeare so aptly pointed out, a rose by any other name still smells as sweet.³⁴ Here, Mr. Cowhey did exactly what expert trial consultant does: he identified for counsel important documents and categories of documents that counsel needed to obtain through discovery. Counsel, in turn, served the request upon Petitioner’s counsel via letter dated May 16, 2022. See Mot. at Ex. 2. Thus, Mr. Cowhey did not engage in actual lawyering, but strictly remained within the confines of providing assistance to counsel.³⁵

Petitioner also contends Mr. Cowhey is “calling the shots” because undersigned counsel has indicated she and Respondent “will not agree to mediate until Mr. Cowhey says it is okay to do so.” Mot. at p. 6. This statement on its face indicates that undersigned counsel is the one calling the shots. And, not surprisingly, Respondent will not be prepared to mediate until Mr. Cowhey is in a position to assist counsel on the ultimate issue in this case: the valuation of the marital estate.

³³Exhibit C, Verification of Gregory Cowhey dated 5/12/22 (“May Verification”) at ¶ 12; see also, Exhibit D, Certification of Gregory Cowhey dated 2/28/22 (“February Certification”) at ¶20.

³⁴ Romeo and Juliet, Act-II, Scene-II (“What’s in a name? That which we call a rose / By Any Other Name would smell as sweet.”)

³⁵ Two articles from the American Bar Association on the use of experts illustrate that the services provided by Mr. Cowhey are in the main run of expert services. See Exhibits E, F. (noting that experts can provide services including *inter alia* “drafting discovery requests and responses,” developing and refining case strategy,” “provid[ing] assistance with drafting questions as well as preparing exhibits for use at depositions”.)

Petitioner also states that Mr. Cowhey “testified regarding his recommendation that [Respondent’s] counsel seek the appointment of a special master. Mot. at p. 4, ¶9(e). However, nowhere in his testimony did Mr. Cowhey ever testify to such a recommendation.”³⁶

Finally, Petitioner goes so far as to suggest that experts and financial personnel cannot even talk to each other, without it constituting the unauthorized practice of the law. Mot. at 5. This is preposterous. Petitioner cites no rule that prohibits an expert from obtaining information and data directly from a party with the consent of the parties. No such rule exists; to the contrary, this is done all the time. For example, doctors, psychologists and vocational experts routinely interview, test and examine parties directly and without any counsel being present. At times, liability experts perform material testing or fact investigation without lawyers being present. Informal discovery by experts with the consent of the parties is done routinely and it is not the practice of law. Allowing Mr. Cowhey direct access to Petitioner’s financial records would be more efficient and economical than formal discovery and is supported by the law. *See e.g., Lowen v. Via Christi Hosps. Wichita, Inc.*, No. 10-1201-RDR, 2010 U.S. Dist. LEXIS 122799, at *7-8 (D. Kan. Nov. 16, 2010) (internal citation and quotation omitted) (finding that *ex parte* interviews with health care providers does not run afoul of the Federal Rules of Civil Procedure but instead, “such communication fits more squarely within the spirit of [Federal] Rule 1, as “[i]nformal discovery is both expedient and less expensive than formal discovery, and therefore should be encouraged, not discouraged.”); *Arons v. Jutkowitz*, 2007 NY Slip Op 9309, ¶¶ 6-7, 9 N.Y.3d 393, 407, 850 N.Y.S.2d 345, 350, 880 N.E.2d 831, 836 (2007) (internal citations and quotations omitted).

³⁶ See Exhibit A, Cowhey Tr.

The cases relied on by Petitioner to advance his unauthorized practice of law claim have no bearing on the situation here. Not a single case cited by Petitioner involved an expert witness employed to assist counsel for trial preparation. Each case concerned lawyers practicing in the Virgin Islands without a license. The case *In re the Motion to Permit & Authorize Motylinski*, 60 V.I. 621, 649-50 (V.I. 2014), involved an attorney working in the Virgin Islands drafting contracts and other corporate documents and preparing filings in proceedings on behalf of a corporation. Likewise, the case *In re Jindal* involved a group of attorneys not admitted in the Virgin Islands who had sought legal fees for providing legal research, legal counseling and drafting of court filings (answer and motion to dismiss) for litigation. *In re Jindal*, 69 V.I. 942, 946-47 (2018). *In the Matter of the application of Kershaw*, 70 V.I. 859, 860-861 (V.I. 2019), involved a New York attorney who appeared as counsel at mediation prior to completing her *pro hac vice* admission. *In the Matter of V.I. Bar Ass'n to Adopt ABA Model Rule of Professional Conduct 5.5c*, 75 V.I. 393, 402-403 (V.I. 2021), the court confronted the issue of unauthorized practice of law in the context of transactional matters involving stateside and local counsel and scenarios in which stateside counsel is or will be engaged on a *pro hac vice* basis. Finally, *In the Matter of V.I. Bar Ass'n Comm. on the Unauthorized Practice of Law*, 59 V.I. 701, 707-709 (V.I. 2013), involved an attorney who was hired and performed work for the Department of Justice including controlling plea negotiations and making court appearances pending his admission to the Virgin Islands bar. None of the cases cited by Petitioner sanction a retained expert, and none even *suggests* that it is improper for an expert to be involved in fact-finding in the case, assist counsel in conducting discovery or depositions, or to reach opinions embracing an ultimate issue in the case.

If the Court were to sanction Petitioner's absurd claim that Mr. Cowhey's conduct in this case constitutes the practice of law, then no attorney would be able to utilize the knowledge of an

expert in acquiring specialized information or developing specialized opinions embracing ultimate issues in a case. Indeed, it is revealing that public court filings show that Petitioner's counsel's own firm has also utilized a consulting expert in the manner complained of here, i.e. conducting discovery in litigation.³⁷ In short, the work being performed by Mr. Cowhey is exactly the work that trial expert consultants do routinely in litigation. The novel proposition put forward by Petitioner that expert consulting services in fact constitute the practice of law is nothing but sharp-elbowed litigation tactic to undermine the fact-finding necessary to ensure justice is rendered by this Court and that counsel are competently prepared to represent their client before the Court.

III. Cowhey is Not Engaging in the Unauthorized Practice of Accounting

As to the practice of accountancy, Mr. Cowhey is not performing any attest or auditing work with respect to the Petitioner's financial statements, much less holding himself out as a certified public accountant performing such activities.³⁸ Rather he is analyzing business records and financial documents to determine and offer opinions on the value of the parties' marital assets and, specifically, the Respondent's interest in those marital assets. This is the type of work routinely performed by experts like Mr. Cowhey in the Virgin Islands and every other jurisdiction in the United States. Petitioner cites no precedent finding this type of work to be the improper practice of public accountancy.

³⁷ See e.g., Exhibit G, Petition For Fees And Costs Incurred As A Result Of Plaintiffs Having To Depose Defendant's Expert Amy Peevey For A Second Time filed in *Great Lakes Insurance S.E. et al v. Sunshine Shopping Center, Inc.* [consolidated with *Certain Underwriters at Lloyd's London Subscribing to Policy B1230GP00647B17 and B1230GP00647C17*], Civ. No. 1:19-cv-00039/ 1:20-cv-00033, (D.V.I. May 26, 2022) where petitioners sought fees for their expert. In the accompanying affirmation of counsel at Document 156-1(Exhibit 1), attorney Charlotte K. Perrell of Dudley Newman Feuerzeig LLP states that "Mr. Sanders and I participated in discussions and consultation with William Bracken, both independently and jointly with Attorney Novak, which were necessary to evaluate the information, undertake further legal analysis, and prepare further questioning of Ms. Peevey in a second deposition. (Doc. # 156-1 at 3, ¶ 5) (emphasis added).

³⁸ Ex. A, Cowhey Tr. at 72:20-24.

Before turning to the substance of Petitioner's arguments, it is important to point out that Petitioner's Motion to Refer misses the mark with respect to the scope of accounting work that is regulated by the Virgin Islands Accounting Statute, codified at 27 V.I.C. § 250 et seq. ("VIAS"). VIAS is meant to regulate the practice of certified public accountants operating in the Virgin Islands. To that end, the enforcement provision of VIAS at § 250g, specifically provides for disciplinary measures against a "permitee" such as limiting or revoking practice privileges and imposing fines. 27 V.I.C. § 250g(a). A "permitee" is defined in § 250(o) as the holder of a permit, *i.e.*, a permit to practice as a C.P.A. in the Virgin Islands or under the laws of other states. 27 V.I.C. § 250(n).³⁹ Mr. Cowhey is not a CPA, nor does he hold himself out to be a CPA in the Virgin Islands or anywhere else. Thus, Petitioner's request for the Court to refer Mr. Cowhey to the Board of Public Accountancy has no legal basis.⁴⁰

Petitioner first claims that Mr. Cowhey is improperly holding himself out as an accountant and takes issue with the alleged use of the term "accounting" or "accountant" in reference to Mr. Cowhey, pursuant to Section 250j(f)(2). Mot. at 7. Petitioner then claims that Mr. Cowhey has produced a "report" without the proper licensing in the Virgin Islands pursuant to § 250j. Petitioner, intentionally or by error, misconstrues the nature of public accounting and the regulation of the practice in the Virgin Islands. Under a proper reading of the statute, Mr. Cowhey and RSM have not practiced public accounting in violation of the statute.

³⁹Subsection 250(o) provides that "Permitee" means the holder of a permit as defined in section 250(n). Subsection 250(n) provides that "[p]ermit" means a certificate issued under section 250c of this chapter, a permit to practice as a CPA firm issued under section 250d; or in each case, a certificate or permit issued under corresponding provisions of prior law or the laws of other states. Subsection 250(d) provides that "Certificate" means a certificate as "certified public accountant" issued under section 250c of this chapter or corresponding provisions of prior law, or a corresponding certificate as certified public accountant issued after examination under the law of any other state.

⁴⁰ To the extent that Petitioner argues that RSM is not a licensed public accounting firm in the U.S. Virgin Islands, that argument is irrelevant because, as Petitioner asserts, "RSM is referenced in the February certification 'as a public accounting firm in the United States,'" a fact which Petitioner presents no evidence to controvert. Mot. at 3, ¶ 6.

Mr. Cowhey is not in violation of the Public Accountancy Act, including 27 V.I.C. § 250j(f)(2), simply because he referred to himself a “forensic accountant.” He did not “assume or use any title or designation that includes the words “accountant”, “auditor”, or “accounting”, in connection with any other language, including the language of a report, which *implies* that such person or firm holds such a certificate or permit or has special competence as an accountant or auditor, provided” (italics added). *Id.* To the contrary, Mr. Cowhey made it clear to the Court and in all his certifications that he was not holding himself out as an “accountant” or auditor.⁴¹ Mr. Cowhey informed the Court during his June 2, 2022 testimony that he was not providing any audit or attest services, which is the type of practice that the VIAS is designed to regulate.⁴² Nor was his questioning of the “reliability” of the financial information based on any audit or attest service. Rather, it was based on the gaps in financial records and Cowhey’s valuation of assets (including real property and interests in closely held companies) that conflicted with the value presented by Petitioner, and in other instances, analysis of the stock market that contrasted with the asserted value of certain interests held by Petitioner. In no instance did Mr. Cowhey prepare an audit of the financial accounts of Petitioner, or otherwise hold himself out as acting as anything other than a

⁴¹ Mr. Cowhey’s Curriculum Vitae was previously presented to the Court as Exhibit A to Mr. Cowhey’s February 28, 2022 Certification and does not assert that he holds a CPA. It identifies his areas of expertise as including Forensic Accounting, Financial & Fraud Investigations, Business Valuations Intangible Asset Appraisals, Estate & Gift Tax Appraisals, Economic Damages Analysis, Purchase Accounting Analysis Income Determination, Expert Testimony Litigation Support Services. Ex. H, Cowhey CV.

⁴² VIAS is replete with references to attest and compilations services, establishing that it is these practices as practiced by a certified public accountant that are governed by the statute and that may subject a person to sanctions under the statute. See, e.g., 27 V.I.C. § 250j(i) (“No holder of a certificate issued under section 250c of this chapter may perform attest services through any business form that does not hold a valid permit issued under section 250d of this chapter”); 27 V.I.C. § 250j(j) (“No individual permittee may issue a report in standard form upon a compilation of financial information through any form of business that does not hold a valid permit issued under section 250d of this chapter”). Notably, § 250j(f)(2), which Petitioner cites, makes provision for and allows “[n]on-permittees [to] prepare financial statements and issue non-attest transmittals or information thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS),” which indicates that the critical factor is “holding out” that the individual is in compliance with SSARS, which Cowhey affirmed he made no claim to.

forensic accountant. Notably, 27 V.I.C. § 250j(a), which prohibits the production of a “report” by a non-licensed CPA, declares that a “non-permittee” may provide “other services involving the use of *accounting* skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports thereon.” 27 V.I.C. § 250j(a) (*italics added*). The statute further allows a “[n]on-permittees [to] prepare financial statements and issue non-attest transmittals or information thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS).” *Id.* By this language, the legislators made clear that § 250j(a) is intended only to regulate accounting practices such as an audit or attest service, and did not intend to sweep into its fold every kind of financial analysis that might be described with the word “accounting” such as “forensic accounting.”

Aside from this unfounded claim that using the phrase “forensic accountant” has triggered the enforcement provisions of VIAS, Petitioner’s main purported gripe is that Cowhey engaged in the unauthorized practice of accounting because he has produced a “report” as that word is defined in § 250(r). Because the word is defined in VIAS, it constitutes a term of art. *See* 1 V.I.C. § 42 (“Technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to their peculiar and appropriate meaning.”); *C.f., Defoe v. Phillip*, 56 V.I. 109, 121-23 (V.I. 2012) (holding that the words “employer” and “third person” were not defined under the Virgin Islands Compensation. Act and thus should be construed according to their common meaning in the English language).

Therefore, elucidating the meaning of this term will clarify what it does and does not encompass

For convenience’s sake, the text of § 250(r) is repeated here:

“Report,” when used with reference to financial statements, means an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statements and which also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term, ‘report’, includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to and/or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance and/or such special knowledge or competence.

27 V.I.C. § 250(r) (emphasis added).

Under this provision, to qualify as a “report,” the statement must first include “language that states or implies *assurance* as to the reliability of any financial statements” (italics added). Moreover, to constitute a “report” contemplated by VIAS, the party expressing the opinion that the financial statement is sound must include a “statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing.” In other words, the party producing the report must hold themselves out as having specialized auditing or accounting expertise that allows the expression of an *assurance* as to the reliability of the financial statement, i.e., issued an attest opinion. However, Petitioner disregards the particular meaning of the word “report” under § 250(r) and instead uses “report” in a cursory and generic form in his Motion to Refer, asserting that

Already, in his May Certification, Mr. Cowhey has provided a “report” on Stephen’s personal financial statements. He even specifically expressed “concern as to the accuracy and reliability.” See May Certification at ¶5.

Mot. at 7. However, paragraph 5 of the May Verification is not a “report” as that term of art is defined under § 250(r): it does not constitute an “assurance” of the “reliability” of any “financial statement,” but merely expresses Cowhey’s “concern” about the Petitioner’s claimed decrease his

assets since the divorce decree was entered. Cowhey's so called "report" even "[a]ccept[s] the values set forth in Petitioner's PFS as accurate" and conducts no audit of the presented PFS.⁴³ Mr. Cowhey stated under oath that he did not audit or provide attest services with respect to the financial statements that Petitioner produced. Thus, on this basis alone, Petitioner's claim that Cowhey has presented such a "report" in his May Verification at ¶ 5 should be rejected. What Mr. Cowhey presented here was merely a verification testifying to the concerns he had about the financial data presented by Petitioner; he did not conduct any attest or compilation service, certify that he himself had any "special knowledge or competence in accounting or auditing," or express any opinion providing "assurance about the reliability" of the financial statements.⁴⁴ On multiple grounds based on the plain language of the statute, the assertion that Mr. Cowhey is improperly practicing public accounting reserved for CPAs fails.

Further, legislative intent and associated commentary demonstrate that the term "report" in this context is limited to audit and attest-type services, and not the services Mr. Cowhey is providing. *See, Balboni v. Ranger Am. Of the V.I., Inc.* 70 V.I. 1048, 1090 (V.I. 2019) (utilizing legislative intent in construing 20 V.I.C. § 555). The current version of the VIAS was implemented in 2014 to "bring[] Virgin Islands law into compliance with the provisions recommended by the National Association of State Boards of Accountancy in conjunction with the American Institute of Certified Public Accountants and the Virgin Islands Board of Public Accountancy."⁴⁵ As such, the VIAS closely tracks the Uniform Accountancy Act ("UAA") issued by the American Institute of Certified Public Accountants ("AICPA"). In further

⁴³ See Ex. C, ¶ 5.

⁴⁴ To the extent that Mr. Cowhey has affirmed that RSM provides accounting services, Petitioner has not presented any evidence to suggest that this is a false statement. Nor did Petitioner's counsel question Cowhey as to whether RSM employed persons certified as public accountants to perform any accounting work.

⁴⁵ See Exhibit I, Excerpt from Act 7596 (page 1).

explaining the definition of “report,” the UAA makes the following comment: “[T]he audit function, which this term is intended to define, is the principal kind of professional accounting service for which a license would be required under the Uniform Act.”⁴⁶ This same comment is included in the prior version of the UAA in effect at the time of the 2014 VIAS implementation.⁴⁷

In citing to 27 V.I.C. § 250j(a), Petitioner leaves out the portion of the statute that explicitly makes provision for and permits “non-permittees,” i.e., persons not certified to practice as a CPA in the Virgin Islands,⁴⁸ to prepare financial statements and issue non-attest transmittals or information...not purport[ing] to be in compliance with Statements on Standards for Accounting and Review Services (SSARS).” In other words, only a “report” that states that it was made in compliance with SSAS is prohibited as to individuals not licensed as certified public accountants in the Virgin Islands. While Mr. Cowhey does not intend to issue any such “report” as that contemplated by VIAS, it is obvious that the point of the statute is to protect the public from individuals holding themselves out as CPAs, not to prevent individuals from providing expert witness services that include valuation and analysis of financial statements. In this sense, it is not aligned with the regulations concerning the practice of law, which prevent individuals from representing a party in court even if they do not purport to be a lawyer.⁴⁹

⁴⁶ See Exhibit J, Excerpts of Uniform Accountancy Act (8th Ed. 2018).

⁴⁷ See Exhibit K, Excerpts of Uniform Accountancy Act (6th Ed. 2011)].

⁴⁸ 27 V.I.C. § 250(o).

⁴⁹ Compare 27 V.I.C. 250j(a) with 4 V.I.C. § 443, which does not limit disciplinary measures only to individuals holding themselves out as attorneys. Section 443 provides that “the unauthorized practice of law. . .[means] the doing of any act by a person who is not a member in good standing of the Virgin Islands Bar Association for another person usually done by attorneys-at-law in the course of their profession, and shall include but not be limited to:

the appearance, acting as the attorney-at-law, or representative of another person, firm or corporation, before any court, referee, department, commission, board, judicial person or body authorized or constituted by law

Finally, a word must be mentioned regarding Petitioner's contention that Mr. Cowhey is not required to adhere to professional ethics rules. Petitioner states that "Mr. Cowhey testified that he is not bound by a professional code of ethics." Mot. at p. 4, Section 9(c). This is not true. Mr. Cowhey was never questioned about whether he was bound to any professional code of ethics. Mr. Cowhey is certified by the American Society of Appraisers.⁵⁰ The American Society of Appraisers has a Code of Ethics to which he is bound.⁵¹

IV. CONCLUSION

Petitioner's attempt to derail this litigation by asking the Court to disqualify and sanction Respondent's financial expert cannot prevail. The Motion to Refer should be denied because Mr. Cowhey is not engaged in the unauthorized practice of law and is not holding himself out as a C.P.A. or subject to any disciplinary measures by the Virgin Islands Public Accountancy Board. Mr. Cowhey is acting well within the confines of a consulting expert who is assisting counsel in trial preparation with respect to the specialized area of valuation of marital assets of an ultra-high net worth couple who have a global asset portfolio.

Respectfully submitted,

Submitted: July 26, 2022.

/s/ Julie German Evert, Esq.

Julie German Evert, Esq.
Law Offices of Julie Evert, PC
5043 Norre Gade, Suite 6
St. Thomas, U.S.V.I.
(340) 774-2830 telephone
julieevert555@gmail.com

to determine any question of law or fact or to exercise any judicial power, or the preparation and/or filing of pleadings or other legal papers incident to any action or other proceeding of any kind before or to be brought before the same.

4 V.I.C. § 443(a).

⁵⁰ Ex. A, Cowhey Tr. at 71:18-23.

⁵¹ Ex. B, Cowhey Decl. at ¶ 14.

Evans-Freke v. Evans-Freke, ST-16-DI-166

Response in Opposition to Motion to Refer Gregory Cowhey and Firm RSM US LLP to the Appropriate Authorities for Unauthorized Practice of Law and Public Accounting without a License and Prohibit Further Involvement with this Case

Page 19

/s/ Laura Castillo Nagi, Esq.

Laura Castillo Nagi, Esq.

Laura C. Nagi, PLLC.

Attorney & Counselor at Law

5043 Norre Gade, Suite 6

St. Thomas, U.S.V.I.

(340) 244-3432 telephone

laura@lauranagilaw.com

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT this Response in Opposition to Motion to Refer Gregory Cowhey and Firm RSM US LLP to the Appropriate Authorities for Unauthorized Practice of Law and Public Accounting Without a License and Prohibit Further Involvement with This Case complies with the page or word provisions of V.I. Civ. Pro. Rule 6-1(e) and a true and exact copy of the foregoing document was served on the following, this 26th day of July 2022:

Justin K. Holcombe, Esq.
Attorneys for the Petitioner
Dudley, Newman, Feuerzeig, LLP
P.O. Box 756
St. Thomas, VI 00802

Andrew L. Capdeville, Esq.
P.O. Box 6576
St. Thomas, VI 00804

via: C-track | Mail | Fax | Hand Delivery | Email

/s/ Laura C. Nagi

Laura C. Nagi, Esq.

FILED

May 26, 2022 02:34 PM

ST-2016-DI-00166

TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)	
)	
)	
)	
v.	)	FAMILY NO. ST-2016-DI-00166
)	
VALERIE EVANS-FREKE	)	ACTION FOR DIVORCE
)	
)	
Respondent.)	

REPLY TO OPPOSITION TO MOTION TO PRESENT WITNESS TESTIMONY

Respondent is not presenting expert witness testimony regarding the marital assets and their values. Respondent is presenting expert testimony as to why Mr. Cowhey's retention is required, the complicated nature of the marital assets, what supporting documents are still needed, and why Mr. Cowhey is worth his hourly fee, all of which Petitioner has contested. The Court can determine whether a forensic accountant of Mr. Cowhey's experience is required in this matter. Mr. Cowhey is drawing the roadmap so that Respondent can obtain the documents and data needed for Mr. Cowhey to verify the assets.

On May 7, 2022 RSM requested a list of documents that were crucial to their review of the Evans-Freke Marital Assets and Liabilities. There were 34 categories listed on the document request, all of which had between 2 and 10 subcategories of questions and requests. Depending on the amount of accounts and documents available, RSM has estimated at this time, RSM that it has not received even 5 percent of the amount of documents needed to review for their analysis. From the 269 files received, RSM has flagged 43 percent as duplicates. Moreover, there are

financial misstatements for the year 2020 for Castle Freke Farms, LTD and Castle Freke Distillery, LTD that were scanned so poorly, they are completely illegible.

RSM has also not seen any FBAR filings for Mr. Evans-Freke. According to the IRS:

A U.S. person, including a citizen, resident, corporation, partnership, limited liability company, trust and estate, must file an FBAR to report:

1. a financial interest in or signature or other authority over at least one financial account located outside the United States if
2. the aggregate value of those foreign financial accounts exceeded \$10,000 at any time during the calendar year reported.

Instructions for filing an FBAR have been attached as Exhibit "A".

At this time, there would be absolutely no way for Gregory Cowhey to perform a complete and accurate review of the Evans-Freke Assets and Liabilities. There is no way for this case to be fast-tracked if Petitioner refuses to turn over legible documents supporting the information in the Personal Financial Statements. Respondent had no access to these documents prior to the recent "voluntary" production.

Respondent is entitled to 50% of the marital assets and debt. Respondent must understand what those assets are and the value of each asset before she can mediate. Petitioner wants the parties to mediate on a rocket docket, but not to have the chance to understand what the marital assets are and the valuations. Petitioner does not want Respondent to have a forensic accountant so that Respondent can remain in the dark about what Petitioner is doing with the assets and cash.

The Court must rule on the pending motion for *Pendente Lite* Support and Respondent has the right to call witnesses. If Petitioner concedes that money is needed for a forensic

accountant attorneys fees and support, then there is no need for a hearing, but that is not the tact that Petitioner is taking. How can the court rule on whether *pendente lite* relief is needed and the amount needed without testimony and evidence?

This is NOT a hearing on the marital assets and values. This is a hearing on what *pendente lite* relief is needed and how much. Petitioner wants the case to be fast-tracked but he wants Respondent to be hobbled with no access to marital cash other than the monthly "allowance" he "gives" her. That allowance cannot support legal fees and experts.

Petitioner is going to argue that Respondent should use the insurance money from Hurricane Sandy that is earmarked for repairs to the Tuxedo Park house. Respondent will explain to the court what, if anything, those proceeds can and will be used for and the court can determine whether Respondent is credible. Petitioner took hundreds of thousands of dollars from the Hurricane Sandy house insurance settlement for his personal use. Despite repeated requests, Petitioner has not provided an accounting.

Petitioner is going to argue that Respondent recently took a "vacation" to England. This is rich, coming from Petitioner; however, as Respondent will testify, this is untrue.

Petitioner has unclean hands. If Petitioner had taken care of Respondent as he advised the Court he would, motions would not need to be filed. Petitioner's failure to abide by the status quo order and his refusal to give Respondent any portion of the marital cash, has resulted in an unfair advantage to Petitioner in this litigation. Despite Petitioner and his counsel indicating to this Court that they would discuss the support and fee issue, to date, Petitioner has not offered Respondent one penny, pound or Euro from her half of the marital assets. Zip. Zero. Nada.

Unfair is the same as inequitable and Respondent prays this Honorable Court to restore the parties to equal footing so that Respondent can obtain her half of the marital assets, subject to

the marital debt. Respondent is using her "allowance" to fly to St. Thomas on Sunday, May 29, 2022 and unlike Petitioner, Respondent will be staying at Bluebeard's Castle in a studio. The Court can see how complicated the assets of the marriage are, especially since Petitioner is claiming that the businesses are all "his". Petitioner is holding the money and Respondent requires the money so that her experts and counsel can reasonably and properly represent her.

WHEREFORE, for all of the foregoing reasons, Respondent requests that the Hearing be held on June 2, 2022 as previously ordered and that each party be permitted to call witnesses who will testify as to the pendente relief requested.

Respectfully submitted,

Submitted: May 26, 2022

/s/ Julie German Evert, Esquire

Julie German Evert, Esquire
Law Offices of Julie Evert,
PC 5043 Norre Gade, Suite 6
St. Thomas, U.S.V.I.
(340) 774-2830 telephone
julieevert555@gmail.com
Laura Castillo Nagi, Esquire
Laura C.Nagi, PLLC.
Attorney & Counselor at Law
5043 Norre Gade, Suite 6
St. Thomas, U.S.V.I.
(340) 244-3432 telephone
laura@lauranagilaw.com

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT true and exact copies of the foregoing *REPLY TO OPPOSITION TO MOTION TO PRESENT WITNESS TESTIMONY* was served via U.S. Mail, postage prepaid, facsimile, hand delivery, or email on this the 26th day of May 2022 upon:

Henry L. Feuerzeig, Esq.
Justin K. Holcombe, Esq.
Attorneys for the Petitioner
Dudley, Newman, Feuerzeig, LLP
P.O. Box 756
St. Thomas, VI 00802

Andrew L. Capdeville, Esquire
8000 Nisky Center, Suite 201
St. Thomas, VI 00802
Tel: (340) 774-7784
Fax: (340) 774-2737
Capdeville@alcvilaw.com
Dpeters@alcvilaw.com

via: **C-track** | Mail | Fax | Hand Delivery | **Email**

/s/Nicole Heagarty/s/

Nicole Heagarty
Legal Assistant

CONFIDENTIAL

Julie German Evert, Esquire
LAW OFFICES OF JULIE EVERT, PC
5043 Norre Gade, Suite 6
St. Thomas, U.S.V.I. 00802
(340) 774-2830 telephone
julieevert555@gmail.com
lawofficeofjulieevert@gmail.com

Laura Nagi, Esquire
LAW OFFICES OF LAURA NAGI, PC
5043 Norre Gade, Suite 6
St. Thomas, U.S.V.I. 00802
(340) 244-3432 telephone
laura@lauranagilaw.com
legal@lauranagilaw.com

Attorneys for Respondent Valerie Evans-Freke

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)	
)	
)	
)	
v.	)	FAMILY NO. ST-2016-DI-00166
)	
VALERIE EVANS-FREKE,)	
)	
)	
)	
)	
)	

CERTIFICATION OF GREGORY COWHEY

I, Gregory Cowhey, hereby certify and state as follows:

1. I am a principal at RSM US LLP ("RSM") in Philadelphia, Pennsylvania. RSM was retained by Respondent to provide accounting, financial, economic, valuation and litigation support consulting services in connection with the matter at bar. Specifically, RSM was engaged to assist Respondent and Counsel by providing forensic accounting, valuation analysis, litigation support and related services to allow Respondent to establish the marital estate subject to division. I am the RSM engagement leader on this matter.

2. The Supreme Court of the Virgin Islands in its opinion dated December 30, 2021¹ recognized the need for Respondent to engage the services of an expert in the instant litigation when it wrote “The New York court held that ‘complicated and significant issues in the action will arise from the identification, valuation and equitable distribution of marital assets’ the majority of which are in the Virgin Islands. (J.A. 391). The New York court also determined the ‘compelling [Valerie] to litigate the action in the USVI would appear considerably less disruptive and more efficient than compelling [Stephen] to litigate in New York’ because ‘[Stephen] continues to be actively involved in his businesses’ and that the complexity of the financial issues would likely require ‘the participation of experts, not [Valerie].’ (J.A. 392).”
3. I am advised by Counsel that Respondent engaged me, through RSM, based on my individual experience and expertise if matters required to assist Respondent and Counsel to identify, value and divide marital assets and the depth of knowledge and experience that my firm RSM would bring to bear on the engagement.

Background of RSM US LLP

4. RSM is the fifth largest public accounting firm in the United States and the first-choice advisor in the middle market for audit, tax, and consulting services. The Firm employs more than 13,000 people through a network of 83 offices in 32 states in the United States and four offices in two provinces in Canada. Annual revenues for RSM approximate \$2.9 Billion. RSM is also a member firm in RSM International (“RSMI”).

¹ See *Stephen Evans-Freke v. Valerie Evans-Freke*, Supreme Court of the Virgin Islands, Division of St. Croix, S. Ct. Civ. No. 2019-0046, ¶4.

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5. RSMI is an affiliation of public accounting firms across the globe with presence in most major business centers in the world. The international firms of RSMI collectively employ more than 48,000 people through a network of offices in 120 countries and generate annual revenue of more than \$6.3 Billion.
6. As a principal of RSM, I have access to the network of professionals working at any of the 100+ member firms of RSMI and, as a result, I am equipped to provide local market services from around the globe and avail myself to technical issues that may arise in specific locales.
7. As part of our client intake process, RSM conducted an internal conflict search to identify any pre-existing client relationships between RSM member firms and Petitioner and entities in which Petitioner maintains an equity interest that may be subject of division in the matter at bar. No such pre-existing client relationships were identified; therefore, there are no impediments of which I am aware that would prevent myself and my team at RSM from providing consulting services to Petitioner for the matter at bar.

Background of Gregory Cowhey

8. I have been actively engaged in the field of financial forensic services for more than thirty-five (35) years. My professional qualifications are attached hereto as **Exhibit A**.
9. I have been called upon to offer expert opinions, and expert testimony at trial/arbitration, on more than five hundred (500) matters. A listing on my expert testimony over the last five (5) years is attached hereto as **Exhibit B**.
10. The areas in which I have been qualified as an expert include, but are not necessarily limited to, the following: forensic and investigative accounting; business and intangible asset valuation; economic damages; post-acquisition accounting and tax matters; solvency; income determination; and matters of similar financial/economic substance.

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11. During my career, I have been retained to provide services to companies engaged in many varied lines of business pursuits. The industries in which entities I analyzed and appraised include, but are not limited to, the following: pharmaceutical, therapeutics, real estate, hospitality, and many others. I work with companies from around the world and do not limit my services to domestic companies with operations exclusively in the continental United States. Through the RSMI network, my ability to offer professional services in nearly every country around the globe is practically boundless.
12. It is the combination of my individual professional experiences and RSM's global reach that uniquely qualify me to work with Respondent and Counsel in the matter at bar as our limited initial research indicates that Petitioner is involved with an expansive web of business entities engaged in many varied lines of pursuit in business centers around the globe.

Background of The Parties and the Instant Litigation

13. Based on my discussions with Respondent and Counsel, I understand Petitioner and Respondent have been engaged in the instant litigation since 2016, with actions pending in the Superior Court of the Virgin Islands and the Supreme Court of the State of New York. I further understand that after protracted, and at times very active, litigation between November 2016 and July 2020, the Supreme Court of the Virgin Islands ruled that the divorce and equitable distribution proceedings should be conducted in the Superior Court of the Virgin Islands, Division of St. Thomas, and St. John.
14. Petitioner and Respondent are reasonably classified as "ultra-high net worth" persons with investments in businesses, real property, personal property, investments, and the like in multiple locations around the globe. Petitioner has a notable family and distinguished

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career history, having worked in the United States and several countries around the world, including but not limited to Bermuda, Switzerland, England, Ireland, and multiple other European and perhaps Asian countries. At this time, I have not been provided any meaningful records that would assist me to identify business, financial, investment, real property and/or personal property assets held by, or for the benefit of, Petitioner and Respondent. Respondent did indicate certain real property assets located in Tuxedo Park, NY; St. Thomas, USVI and Rosscarberry, County Cork, Ireland. However, Respondent's knowledge of Petitioner and his other assets, investment and business holdings was limited. As a result, I engaged in online research of Petitioner and Respondent to begin to develop an understanding of the scope of work that would be expected of me to identify, value, and divide assets, and liabilities, as part of the marital estate subject to division in the matter at bar.

15. My preliminary initial online research indicates a notable history for Petitioner and his family, with a family lineage tracing back to, at least 1715. It is believed that Petitioner was born in Ireland and moved thereafter to England where he was educated, ultimately graduating in 1973 from Cambridge University with a law degree. After graduation, Petitioner initially located in South Africa where he worked for International Business Machines ("IBM"). Petitioner moved to New York, NY (USA) in 1976 and became employed as an investment banker, focusing his attention on financing the early-stage biotech companies, including but not limited to AMGEN, Centocor and others, many of which ultimately produced and marketed lifesaving and life-improving treatments and pharmaceuticals. Petitioner rose to the rank of President of Paine Webber, a prestigious Wall Street investment banking firm, with offices and influence around the globe. It is believed Petitioner left his position at Paine Webber, and Wall Street more generally, on

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or about 1990 and since that time has engaged in private investments in firms pursuing biotechnology, therapeutics, pharmaceuticals, and products of a similar nature.

16. Based on my reading of certain pleadings and decisions rendered in the matter to date (both from the courts in the State of New York and the Virgin Islands), I understand that Petitioner and Respondent were married in Norwalk, Connecticut (USA) in December 1990 and purchased real property in Tuxedo Park, NY in or about 1998. In 2008, Petitioner moved to the US Virgin Islands, specifically St. Thomas. At some time, Petitioner established residency in the Virgin Islands and used this locale for the base of his business, real property, personal property and investment endeavors.
17. Based on discussions with Counsel, I understand that a thorough, comprehensive, and detailed review of Petitioner's financial affairs during the full term of the marriage, or at least a significant number of years [not less than 7-10 years] pre-dating the initial Complaint in Divorce in November 2016, are necessary so that Respondent understands the composition, location, valuation and other aspects of the marital assets, and liabilities, that are the subject of division in the instant matter.
18. I would expect a study of Petitioner's, and Respondent's, personal income tax returns for the years 1999 to 2021, at least, would provide an initial roadmap as to the assets held, acquired and/or disposed that may be part of the marital estate Respondent will ask the honorable court to divide in equitable distribution, said income tax returns have not yet been made available to me.
19. A preliminary list of legal entities in which Petitioner may have maintained an ownership interest² during coverture include, but are not limited to, the following:

² Further preliminary research suggests that some of the entities listed below may have re-branded and, as a result, the same entity may be listed under two separate names.

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- a. ADC Therapeutics
- b. AeroMD
- c. High Cross Health Foods, Ltd.
- d. Crossmatch Technologies, Inc.
- e. Castle Freke Gin
- f. Inspiration Biopharmaceuticals
- g. Auvén Therapeutics Management, LLLP
- h. Royalty Pharma
- i. Bonice Property Corporation
- j. Octara Limited
- k. The Water Island Development Company
- l. Lakewood-Amedex, Inc.
- m. Celtic Pharma Phinco B.V.
- n. Targeted Delivery Technologies, Holdings, Ltd.
- o. Targeted Delivery Technologies, Ltd.
- p. Xenova Group, Ltd.
- q. TDT 044 Ltd
- r. TDT 054 Ltd.
- s. Celtic Pharmaceutical Holdings, LP
- t. Celtic Pharma Services Bermuda, Ltd.
- u. Auvén Therapeutics Management, LLLP (f/k/a Celtic Therapeutics Management, LLLP, As Successor-in-Interest to Celtic Pharma Management, LP
- v. Celtic Pharma Management, LP

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- w. Celtic Pharma Management Company, Ltd.
- x. Celtic Pharma Fix, Ltd.
- y. Celtic Pharma Fix Venture, Ltd.
- z. Spirogen
- aa. Resolvix
- bb. Kiacta
- cc. Kolton
- dd. Sprout Pharmaceuticals
- ee. HID Global
- ff. Genomics Bioscience SA
- gg. Biostreet.com

20. Through Respondent's Counsel, RSM will serve one or more detailed itemized discovery requests for records on all business, investment, real property, and personal property assets held by either Party that may be the subject of division in the matter at bar.
21. I reasonably expect that Respondent's Counsel will need to take multiple depositions of persons deemed to have knowledge of all business, investment, real property, and personal property assets held by either Party that may be the subject of division in the matter at bar. I expect that I may be asked by Respondent's Counsel to assist in the taking of such depositions and to identifying areas of inquiry to be pursued during said depositions.
22. As part of my due diligence in this matter, I expect that significant market, industry and product research will be required to allow me to prepare appropriate financial and valuation analysis and to form opinions that Respondent's Counsel will elicit at the trial on the instant matter.

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23. Inasmuch as Petitioner appears to have business operations in, at least, multiple locales around the globe (i.e., St. Thomas, VI; County Cork, Ireland; Hamilton, Bermuda; United States, British Virgin Islands, just to name a few), I may need to enlist the professional assistance of RSM affiliated firms in multiple countries.
24. Based on information discovered in my preliminary research, it appears that Respondent, either individually or through one or more legal entities, has been both the moving party and defendant in multiple lawsuits, some of which have been reduced to judgments, that may represent either an asset or liability to the marital estate. As a result, I may recommend to Respondent's Counsel to retain co-counsel to address the business litigation in which Respondent has been involved.

Overview of RSM's Expected Fees and Costs in this Engagement

25. I am **not** comfortable that I have discovered all the business, investment, real property, and personal property assets held by either Party that may be the subject of division in the matter at bar such that I could provide a fully informed estimate of the fees and costs that I expect would be incurred to identify, analyze, value and/or divide in equitable distribution.
26. My hourly rate for professional services is \$600 and the hourly rate of professionals on my team, based in Philadelphia, PA (USA) range between \$220 and \$325.
27. Understanding the scope of my preliminary research regarding Respondent and the business, investment, real property and personal property assets held by either Party that may be the subject of division in the matter at bar, I would not expect myself and members of my team to invest less than eight hundred (800) hours to perform our forensic accounting, financial analysis and valuation analysis, and based on a blended hourly rate for my team at \$300, at this time I expect fees not to be less than Two Hundred and Forty

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Thousand Dollars (\$240,000). Depending on what is learned through the discovery process and the extent of movement of funds through a varied maze of international entities, ultimate engagement fees may well exceed the estimate provided herein.

28. In addition to professional fees, RSM would invoice Respondent for out-of-pocket costs, at amounts actually incurred, for items include, but not limited to, travel, housing, third party experts, online research through subscription-based databases, and the like. In matters such as the one at bar, my experience is that engagement costs generally approximate ten percent (10%) of engagement fees.
29. The standard practice of RSM is an initial retainer fee of not less than fifty percent (50%) of the expected fees and costs. In this instance, we request an initial retainer of One Hundred Twenty Thousand Dollars (\$120,000).
30. Respondent's Counsel advised me that Respondent lacks the financial resources to fund the significant investment required to allow she and her Counsel to become informed about the business, investment, real property, and personal property assets held by either Party that may be the subject of division in the matter at bar and, as a result, Respondent is petitioning the honorable court for an award of fees and costs in connection with the matter.

VERIFICATION

I hereby affirm that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: February 28, 2022



Gregory Cowhey

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Julie German Evert, Esquire
LAW OFFICES OF JULIE EVERT, PC
5043 Norre Gade, Suite 6
St. Thomas, U.S.V.I. 00802
(340) 774-2830 telephone
julieevert555@gmail.com
lawofficeofjulieevert@gmail.com

Laura Nagi, Esquire
LAW OFFICES OF LAURA NAGI, PC
5043 Norre Gade, Suite 6
St. Thomas, U.S.V.I. 00802
(340) 244-3432 telephone
laura@lauranagilaw.com
legal@lauranagilaw.com

Attorneys for Respondent Valerie Evans-Freke

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

STEPHEN EVANS-FREKE,)	
)	
	Petitioner,	
v.	)	FAMILY NO. ST-2016-DI-00166
)	
VALERIE EVANS-FREKE,)	
)	
	Respondent,	
)	

VERIFICATION OF GREGORY COWHEY

I, Gregory Cowhey, hereby certify and state as follows:

1. I am a principal at RSM US LLP ("RSM") in Philadelphia, Pennsylvania. RSM was retained by Respondent to provide accounting, financial, economic, valuation and litigation support consulting services in connection with the matter at bar. Specifically, RSM was engaged to assist Respondent and her Counsel by providing forensic accounting, valuation analysis, litigation support and related services to allow Respondent to establish the marital estate subject to division. I am the RSM engagement leader on this matter.

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2. On March 11, 2022, Respondent, through Counsel, filed an Emergency Motion for Pendente Lite Support, Expert Forensic Accountant fees and Costs, and Attorney's Fees and Costs *Pendente Lite* ("Respondent's Emergency Motion").
3. On April 25, 2022, Petitioner, through Counsel, filed an Opposition to Respondent's Emergency Motion ("Petitioner's Opposition"). Attached to Petitioner's Opposition was Exhibit 2 – Affidavit of Stephen Evans-Freke ("Petitioner's Affidavit"). Exhibit 1 of Petitioner's Affidavit included Petitioner's personal financial statements as of December 31, 2007 to 2021 and as of March 31, 2022 ("**Petitioner's PFS**").
4. At Respondent's and Counsel's request, I reviewed Petitioner's Opposition, Petitioner's Affidavit and Petitioner's PFS and, based on that review, I have numerous questions as to both the assets and liabilities included in Petitioner's PFS as well as the value for said assets and liabilities as assigned to same by Petitioner.
5. By way of example and without limitation, Petitioner's claimed net worth declined by approximately 42 percent between December 2021 to March 2022, not an insignificant decrease especially in such a short period of time (i.e., 90 days). More notably however is Petitioner's claimed reduction in net worth from the date (December 30, 2021) the Supreme Court of the Virgin Islands issued an order in which it "...immediately entered a decree of divorce and exercised jurisdiction over all outstanding issues that remain between the parties".¹ Accepting the values set forth in Petitioner's PFS as accurate, Petitioner would have one believe that in a period of approximately 90 days his net worth declined from approximately \$50.4 million to approximately \$37.5 million, a decrease of approximately \$12.9 million, or 26 percent on a relative basis.

¹ C. Ct. Civ. 2019-0046, Re: Super. Ct. DI No. 166/2016 (STT).

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	31-Mar-22	31-Dec-21	31-Dec-20	31-Dec-19	31-Dec-18
Cash	67,937	100,750	2,866,629	99,463	241,750
3 month GP distribution	210,000	210,000	150,000	-	-
Closely Held Business Interests	30,856,394	43,788,066	52,357,971	44,828,587	70,441,783
Real Estate Holdings	10,850,000	11,287,930	9,687,930	6,600,000	6,600,000
Personal Property Assets	2,269,000	2,139,000	2,315,261	2,168,861	2,168,861
Total Assets	44,253,331	57,525,746	67,377,791	53,696,911	79,452,394
Real Estate Mortgages	4,000,000	4,500,000	3,500,000	4,550,000	4,550,000
Notes Payable	1,405,841	1,405,841	2,172,441	10,180,702	10,180,702
Credit Cards	110,240	103,043	-	-	-
Personal Notes	789,956	789,956	-	-	37,080
Taxes Due	469,428	349,527	266,193	248,078	117,157
Total Liabilities	6,775,465	7,148,367	5,938,634	14,978,780	14,884,939
Net Worth	37,477,866	50,377,379	61,439,157	38,718,131	64,567,455
Period Change in Net Worth	-26%	-18%	59%	-40%	
Change in Net Worth - December 2018 to March 2022	-42%				

The variability² of Petitioner's claimed asset values between 2018 and 2022 causes me grave concern as to the accuracy and reliability and whether there was any hidden motive with the value presentation on a period by period basis. This variability is particularly concerning since the composition of the assets remained relatively consistent during the period analyzed.

6. Closer analysis of Petitioner's PFS, focusing on Petitioner's claimed value in multiple closely held entities in which he maintains an interest, present a consistent, but more dramatic trend during the 3-month period succeeding the December 30, 2021 Supreme Court of the Virgin Islands opinion regarding jurisdiction of the matter at bar, as set forth below:

	31-Mar-22	31-Dec-21	31-Dec-20	31-Dec-19	31-Dec-18
Water Island Development LLC	1,037,826	7,200,000	7,200,000	966,664	515,810
Castle Freke Farms Ltd - 100% interest	1,278,526	3,981,669	509,816	-	-
Castle-Freke Distillery Ltd - 100% interest	895,414	706,666	528,798	528,798	-
Aero MD (Air Ambulance Caribbean, Inc) - 13% interest	2,080,000	2,080,000	2,080,000	1,543,768	1,543,768
Subtotal - Closely Held Business Interests	5,291,766	13,968,335	10,318,614	3,039,230	2,059,578
Change in Stated Value	-62%	35%	240%	48%	

² Down 40 percent in 2019 from 2018 values, up 59 percent in 2020 from 2019 values, down 18 percent in 2021 from 2020 values, and down 26 percent in the 3-month period December 2021 to March 2022.

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7. Of equal concern is Petitioner's claimed value of certain real property he owns, specifically in Ireland. Public press³ reports that Petitioner is "...spending millions of euros on a 'labour of love' rebuilding a castle which was once in his family's possession for hundreds of years." The "millions of euros" do not appear to be reflected in Petitioner's claimed value for Castle Freke. Moreover, Petitioner failed to assign any value to four (4) real property assets as of March 2022, but claimed the parcels were worth approximately \$850,000 as of December 2021.

	31-Mar-22	31-Dec-21	31-Dec-20	31-Dec-19	31-Dec-18
Castle Freke, on 80 ac (100% ownership)	2,500,000	2,500,000	2,500,000	-	-
Rathbarry Castle, on 34 ac (100% ownership)	1,800,000	1,800,000	1,800,000	900,000	900,000
South Lodge, Rathbarry Castle (100% ownership)	350,000	350,000	350,000	-	-
Conally Farm (100% ownership)	-	300,000	300,000	300,000	300,000
Sea View Ahaglaslin Farm (100% ownership)	-	200,000	200,000	200,000	200,000
Castle Freke Cottage (100% ownership)	-	287,930	287,930	-	-
Deposit on Garden House	-	50,000	-	-	-
Subtotal - Real Property	4,650,000	5,487,930	5,437,930	1,400,000	1,400,000
Change in Stated Value	-15%	1%	288%	0%	

It is concerning to see assets that Petitioner claimed existed and had a value of approximately \$850,000 suddenly disappear without any indication that the assets were liquidated and converted to cash.⁴

8. Petitioner's Objection paints a picture of Petitioner as a sophisticated Wall Street type private equity investor and manager who is a general partner for an enterprise that focuses on the "...development of novel pharmaceuticals, primarily in the oncological and ophthalmological fields"⁵ and that the portfolio company – Auvén Therapeutics GP Limited ("Auvén") engages annually in a multi-part independent valuation process with KPMG valuing Auvén and PricewaterhouseCoopers ("PwC") auditing the valuation prepared by KPMG. Access to the KPMG valuations and PwC audit reports would enable

³ Labour of Love to Restore Former Family Castle, Sean O'Riordan, *Irish Examiner*, August 6, 2019.

⁴ Note on Petitioner's personal financial statement summary at par. 5 that Petitioner's cash balance decreased between December 2021 and March 2022.

⁵ See Petitioner Affidavit at par. 6.

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Respondent and her Counsel to assess the reliability of value that Petitioner assigns to his interest in Auvén, but not the other closely held entities.⁶

9. The examples set forth above are only but a few of the many concerns I have with relying on Petitioner's PFS and highlight the need for further, and more in-depth, analysis of the assets and liabilities that comprise the estate of the Parties and the value of those assets and liabilities that are subject to division in the matter at bar.
10. Petitioner's Objection asks the Court to deny Respondent's Motion and order the parties to early mediation. Based on my discussions with Respondent's Counsel, I understand that Respondent received little, if any, discovery of records and information regarding the existence of, and value of, the assets and liabilities that Petitioner claims make up the marital estate. In effect, Petitioner asks the Court to order Respondent to engage in early mediation with no knowledge of facts pertinent to the issue of equitable distribution. At a bare minimum, Respondent should be permitted to engage in "*doveriyai, no proyeryai*"⁷ exercises and employ extensive verification procedures to test the values of marital assets and liabilities as set forth in Petitioner's PFS.
11. At this point in time, without the relevant discovery of records and information to which Petitioner has full and unfettered access, Respondent is incapable of effectively engaging in mediation, early or otherwise. Stated differently, Respondent would be at a severe Strategic disadvantage relative to Petitioner without engaging in a robust discovery process.

⁶ Which entities include Water Island Development, LLC; Castle Freke Farms, Ltd.; Castle Freke Distillery, Ltd.; Air Ambulance Caribbean, Inc.; Rosetta Capital Limited; Sonovation, Inc.; Cibus Global, Ltd.; Opna Immuno-Oncology, SA; Livby, Inc.; and, International Bioscience Managers Limited.

⁷ A rhyming Russian proverb translated to English as "*trust, but verify*", made famous by Ronald Reagan in December 1987 at the signing of the INF Treaty whereby Reagan wanted "extensive verification procedures" to monitor Russian compliance with its representations.

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12. As a result of our study of Petitioner's Objection, Petitioner's Affidavit and Petitioner's PFS, Respondent's Counsel requested that I prepare an initial itemized discovery request⁸ of the records and things I would need to further review and more deeply analyze to assist Respondent and her Counsel better understand the extent of Petitioner's net worth and the assets and liabilities subject to division in the instant litigation.
13. RSM and your Affiant are prepared to proceed with a more in-depth analysis of Petitioner's net worth upon authorization and receipt of the records requested in the initial itemized discovery request.

VERIFICATION

I hereby affirm that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: May 12, 2022



Gregory Cowhey

⁸ It should be noted that the initial itemized discovery request of RSM is not necessarily the sole and final discovery request. Upon receipt, review and analysis of records and information produced pursuant to the initial itemized discovery request, RSM would expect to have one, or more, supplemental discovery requests and will need to make direct inquiry, either through depositions conducted by Respondent's Counsel or interviews conducted by your Affiant and the RSM engagement team. I further expect that member(s) of the RSM engagement team may need to make site visits to the facilities at which certain assets are held or closely held businesses conduct operations.

ACTION FOR DIVORCE

6. In past engagements, there have been situations in which I deal directly with the opponent's financial personnel. Those situations are always with the consent and authorization of the parties and their counsel. The purpose of such direct interaction is to allow the financial experts on both sides to effectively and efficiently exchange information necessary for my analysis. Such direct interaction is always done at the direction of the counsel for my client.
7. In this matter, like in many of the other matters I have been engaged, I have provided Respondent's counsel with requests for documents and categories of documents that will be necessary to perform my analysis. I provided a list of such documents to Respondent's Counsel with the understanding that she would then issue discovery requests to counsel for Respondent seeking such documents and information as she deemed appropriate. In this matter, like in other matters in which I have provided counsel with requests for documents and categories of documents, I had no final say over what if any discovery requests would ultimately be issued by counsel.
8. I have never conducted an audit or review of an individual's or entity's financial statements. I have never performed attest services relating to an individual's or entity's financials statements. I have never issued a report following any such audit, attest, or review engagements that expresses an opinion or conclusion on the reliability of such financial statements or whether such financial statements were presented fairly in accordance with applicable accounting principles or any other standard.
9. My analysis of Petitioner's financial information in this matter is solely for the purposes of this litigation. The purpose of my analysis is to assist Respondent and her counsel in understanding Petitioner's financial position and the value of his assets and liabilities, and if requested, provide expert testimony on those issues. Similarly, to the extent my work on this engagement includes an analysis of any of Petitioner's financial statements or the financial statements of any entity in which Petitioner holds an interest, such analysis is for the purpose of assisting Respondent and her counsel understand Petitioner's financial position and the value of his assets and liabilities and if requested, providing expert testimony on those issues.
10. In my Verification dated May 12, 2022 ("May Verification"), I indicated that I had analyzed Petitioner's personal financial statements ("PFS") and that this analysis raised numerous questions with respect to the value of Petitioner's assets and liabilities. I concluded that in order for me to be able to adequately value Petitioner's assets and liabilities, it was necessary to get answers to the questions that were raised following my analysis of the PFS's.
11. In the May Verification I noted that certain differences over the years in the PFS "causes me grave concern as to the accuracy and reliability and whether there was any hidden motive with the value presentation on a period by period basis." [May Verification ¶ 5] The purpose of that comment was to explain that my analysis of the PFS's raised

additional unanswered questions and to explain why I felt it necessary to obtain more financial information from Petitioner. I was not expressing any assurance on the reliability of such financial statements following an audit, review or other attest engagement, nor was I expressing an opinion on whether such financial statements were presented fairly in accordance with applicable accounting principles or any other standards.

12. Any conclusions I reach or opinions I express in this matter, whether written or otherwise, will be as to Petitioner's financial position and the value of his assets and liabilities. I will not express in opinion, report or otherwise any assurance as to the reliability of such financial statements or whether any financial statements I have analyzed were presented fairly in accordance with applicable accounting principles or any other standard.
13. I have not, in connection with this matter or otherwise, ever held myself out as engaged in the practice of public accountancy. I do not intend to indicate that I am a certified public accountant, or to practice public accountancy, in connection with this engagement.

Executed on July 22, 2022.

Gregory Cowhey

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)	
)	
Petitioner,	)	Family No.
	)	ST-16-DI-166
v.)	
)	
VALERIE EVANS-FREKE,)	
)	
)	
Respondent.)	

Transcript
Motions Hearing
June 2, 2022

BEFORE: DEBRA S. WATLINGTON
Judge Presiding

APPEARANCES: ANDREW CAPDEVILLE, ESQ.
JUSTIN HOLCOMBE, ESQ.
(For the Petitioner)

JULIE EVERT, ESQ.
LAURA NAGI, ESQ.
(For the Respondent)

1 ATTORNEY HOLCOMBE: Your Honor,
2 it wasn't disclosed for the rules.

3 THE COURT: That's not the
4 basis. Your objection is so noted and you have
5 every right to object since the Court has
6 reversed its ruling.

7 ATTORNEY HOLCOMBE: Very well,
8 Your Honor.

9 THE COURT: So, lets proceed.
10 Attorney Evert?

11 ATTORNEY NAGI: Your Honor, may
12 I make a brief opening statement.

13 THE COURT: You may.

14 ATTORNEY NAGI: So, good
15 morning again everyone. As the Court has
16 emphasized several times, we're here on an
17 emergency motion for support pendente lite and
18 the standard pursuant to section 108 of Title
19 16 really is need and ability to pay and that's
20 what we intend to focus on today.

21 Section 108 gives the Court the
22 authority to enter an interim order such as the
23 one's we are requesting during the pendency of
24 a matter, and it's really intended to give a
25 party the ability to prosecute or defend in

1 VALERIE EVANS-FREKE,
2 after having been first duly sworn by the
3 clerk, testified as follows:

4 DIRECT EXAMINATION

5 BY ATTORNEY EVERT:

6 Q Please state your full name and
7 spell it for the court reporter?

8 A Valerie Evans-Freke, E-v-a-n-s
9 hyphen F-r-e-k-e.

10 Q And, Ms. Freke, where do you live?

11 A Tuxedo Park, New York.

12 Q And how long have you lived there?

13 A Since 1999.

14 THE COURT: What is that
15 address, please?

16 THE WITNESS: 91 Lookout road.

17 THE COURT: Lookout?

18 THE WITNESS: Lookout.

19 BY ATTORNEY EVERT:

20 Q And when did you and Mr. Evans-Freke
21 purchased that property?

22 A 1999.

23 Q And did you live in New York before
24 you bought the property?

25 A We lived in California before we

1 house at 91 Lookout Road?

2 A It was a number of years. I would
3 say approximately four years we lived in one,
4 two, three, four different rental houses and we
5 actually lived at the Tuxedo Club for a short
6 period of time.

7 Q What is the Tuxedo Club?

8 A It's a club where people dine.
9 There are sports. You have racquetball,
10 squash, court tennis, boating, golf. It's
11 where the community meets.

12 Q Can you describe is Tuxedo Park a
13 neighborhood?

14 A It's a small village. It's a gated
15 community.

16 Q So, are there guards at the gate?

17 A Yes.

18 Q How long have you and your husband
19 been members of the Tuxedo Club?

20 A Probably since 1999. We joined
21 shortly after we moved there.

22 Q And how was that membership given?
23 Was it a family membership?

24 A We all used it, yes.

25 Q Do you participate in sports?

1 A Yes.

2 Q What do you do?

3 A Squash, court tennis, paddle tennis,
4 boating, kayaking. That's what's available to
5 the club, but I do other sports, also sculling.

6 Q Do you have in Tuxedo Park?

7 A Yes.

8 Q What's the present condition of
9 Tuxedo Park. Are you still living in that
10 house?

11 A Yes.

12 Q Do you live with anybody?

13 A No.

14 Q Can you describe the house
15 generally. How does it look from the outside?

16 A It's a brick and limestone house.
17 It's a historical home. It was built in 1899.

18 Q And does it have a lot of rooms?

19 A It's a large the house.

20 ATTORNEY EVERT: Your Honor,
21 when we pull an exhibit up where does it go?

22 THE COURT: It will be shown on
23 the witness's monitor.

24 ATTORNEY EVERT: Okay.

25 BY ATTORNEY EVERT:

1 THE COURT: It will be
2 stricken. When there's an objection, please
3 don't speak out.

4 THE WITNESS: Okay.

5 BY ATTORNEY EVERT:

6 Q So, you said in one of these
7 photographs, I believe you said, if I'm
8 correct, thank you were using upstairs as the
9 kitchen?

10 A We had one those small bedrooms
11 upstairs, we fitted it out as a temporary
12 kitchen because the actual kitchen downstairs
13 was not finished.

14 Q Did you have children when you moved
15 into the this house?

16 A Yes.

17 Q How old were the children?

18 A We were renting for about four years
19 Roland was six, so maybe ten -- nine, ten.

20 Q And you have children with
21 Mr. Evans-Freke?

22 A Yes.

23 Q How many children?

24 A Two.

25 Q And what are their names and you

1 have to spell it slowly for the court reporter.

2 A Okay, Yorick Peter Evans-Freke.

3 Q Spell it for --

4 A E-v-a-n-s.

5 Q No. No. No. Spell the first name.

6 Everything.

7 A Okay. Sorry. Y-o-r-i-c-k.

8 Q And Peter?

9 A Peter.

10 Q And then Evans-Freke?

11 A Yes.

12 Q And how old is he right now?

13 A He is 30.

14 Q And where does he live?

15 A He lives in LA and in Ireland.

16 Q Do you have property in Ireland?

17 A Yes, we do.

18 Q Okay, and does your son live on that
19 property?

20 A Yes.

21 Q Do you have another son?

22 A Yes.

23 Q And what is his name?

24 A Roland Charles Goodheart

25 Evans-Freke.

1 Q Were you working when you met
2 Mr. Evans-Freke?

3 A Yes.

4 Q And how old were you when you first
5 met him?

6 A 28, 29.

7 Q And you married -- how old were you
8 when you and Mr. Evans-Freke married?

9 A We lived together for six years, so
10 34.

11 Q What kind of work were you doing
12 when you met Mr. -- when you met Stephen for
13 the first time?

14 A I was modeling and working with
15 American designer Pauline Prigere.

16 Q You have to spell it.

17 A P-a-u-l-i-n-e P-r-i-g-e-r-e.

18 Q Ms. Evans-Freke, where were you
19 living when you first met Stephen?

20 A New York City.

21 Q And was he living in New York City,
22 too?

23 A Yes.

24 Q And what kind of modeling work were
25 you doing?

1 that already, but I don't know if there's other
2 things she may want to address.

3 ATTORNEY HOLCOMBE: Are we
4 talking about the same castle?

5 THE COURT: Well, give her an
6 opportunity to respond.

7 BY ATTORNEY EVERT:

8 Q So, are there two castles that you
9 and Mr. Evans-Freke own?

10 A Rathbarry Castle and Castle Freke.
11 Castle Freke --

12 Q Hold on. You need to speak slower
13 and spell them.

14 THE COURT: Slow down, yes.

15 Q What is the first one?

16 A Castle Freke, C-a-s-t-l-e. Separate
17 word, Freke, F-r-e-k-e.

18 Q And what is the second castle?

19 A Rathbarry, R-a-t-h-b-a-r-r-y,
20 Castle.

21 Q And where are these castles located?

22 A Ireland.

23 Q And do you and Mr. Evans-Freke own
24 these castles?

25 A Yes.

1 Q Have you been inside the castles?

2 A Of course, yes.

3 Q Where in Ireland are they located?

4 A They're in the southwest of Ireland.

5 Q Is there a name of the town where
6 they're located?

7 A Rathbarry.

8 Q And are the castles near each other?

9 A They are adjacent to each other.

10 Q Which castle did you and Mr.
11 Evans-Freke purchase first?

12 A Castle Freke.

13 Q And what year did you and
14 Mr. Evans-Freke purchase Castle Freke?

15 A 1997.

16 Q Do you recall what the purchase
17 price was?

18 A No.

19 Q And when you purchased Castle Freke
20 in 1997, could you live in it?

21 A No, it was ruined.

22 Q What does -- very simply, what does
23 that mean?

24 A It means there were trees growing
25 inside. There were vines growing up the walls.

1 Walls were falling down. There were no
2 windows.

3 Q Slow down.

4 A I'm sorry. It was completely
5 stripped bare inside. There was two feet of
6 cow manure in all the courtyards.

7 Q Do you know how old this structure
8 that was there was when you and Mr. Evans-Freke
9 purchased it?

10 A It was built sometime in the mid
11 18th century. So, 17 something.

12 Q And then you mentioned the Rathbarry
13 Castle?

14 A Yes, that's right across the road.

15 Q Let me ask you a question. When did
16 you and Mr. Evans-Freke purchase Rathbarry
17 Castle?

18 A 2004.

19 Q Okay. And why did you people need
20 two castles?

21 A We could not live in Castle Freke.
22 We had been renting a house for many years
23 nearby and that was no longer going to be
24 available to us, and we actively looking to buy
25 a property in Ireland that we could live in.

1 Q So, you and Mr. Evans-Freke
2 purchased a second castle?

3 A We purchased Rathbarry.

4 Q So, could you live in Rathbarry when
5 you purchased it?

6 A Oh, yes.

7 Q And did it have bedrooms?

8 A Yes.

9 Q How many bedrooms?

10 A Five.

11 Q Did it have bathrooms?

12 A Yes.

13 Q How many.

14 A Oh, God. One, two, three, four.

15 Q Is Rathbarry Castle a single
16 structure or were there other buildings that
17 were part of Rathbarry Castle?

18 A There's a stone stable block.

19 Q What is that?

20 A A stone stable block.

21 Q What does that mean?

22 A Where you can keep horses.

23 Q Okay, are there any other buildings?

24 A There's a gate lodge.

25 Q What is a gate lodge? Can you

(Exhibit 3 displayed virtually)

BY ATTORNEY EVERT:

Q What is the exhibit?

A It's a property description report for 91 Lookout Road.

Q And does it have the square footage on there?

A Yes, it does.

Q And what does it say for the square footage.

A 12,164 square feet.

Q Do you know what the document is?

A Yes.

Q What is it?

A It's a property description report for 91 Lookout Road?

Q And do you know where this document is from?

A Orange County.

Q What is Orange County?

A Orange County is the County where Tuxedo Park is located.

Q Okay, and you obtained this document?

A Yes.

1 A No.

2 Q How much money does he give you?

3 A \$5,000 a month is deposited in my
4 checking account and I'm allowed to charge up
5 to \$5,000 on a platinum American Express card.

6 Q Did you and Mr. Evans-Freke discuss
7 this \$5,000 cash and \$5,000 American Express
8 use?

9 A No.

10 Q Do you recall when you first started
11 to receive it?

12 A No.

13 Q Did you and Mr. Evans-Freke ever
14 have any discussions about this money?

15 A No.

16 Q What did you consider money? Do you
17 call it something?

18 A It's an allowance.

19 Q Did Mr. Evans-Freke call it an
20 allowance?

21 A Yes.

22 Q How do you know that?

23 A Because we used that word.

24 Q Are you asking that the Court award
25 you additional money today?

1 A I don't have medical insurance. I
2 have doctor's appointments.

3 Q Do you have Medicare?

4 A I have Medicare A.

5 Q Okay. And do you know what that
6 gives you?

7 A Not really.

8 Q And when did you start with Medicare
9 A?

10 A Just recently.

11 Q So, do you have doctor's
12 appointments coming up?

13 A Yes.

14 Q Tell the Court slowly what types of
15 doctors you're going to see and why?

16 A I'm at high risk for colon cancer.
17 So, I have a colonoscopy.

18 Q Is that covered by Medicare?

19 A I don't know.

20 Q So, if it's not covered by Medicare
21 are you asking the Court that Mr. Evans-Freke
22 pay that expense?

23 A Yes.

24 Q And would it be safe to say that you
25 only need one colonoscopy before the trial in

1 October?

2 A Yes.

3 Q So -- what other doctors do you need
4 to see?

5 A Well, the same doctor. It's a --
6 what they call it -- gastro -- endo gastrology.

7 Q They go down your throat?

8 A Yes.

9 Q And you need one of those
10 procedures?

11 A I do.

12 Q Is that covered by insurance?

13 A No.

14 Q How do you know?

15 A Because when I've had it in the
16 past --

17 Q It's not covered?

18 A No.

19 Q So, are you asking that
20 Mr. Evans-Freke after that procedure is done or
21 if they require prepayment that he take care of
22 that until this divorce or the equitable
23 distribution happens?

24 A Yes.

25 Q What other doctors do you have?

1 A I have my dentist.

2 Q Okay, is that covered by insurance?

3 A I don't know.

4 Q If it's not covered by insurance,
5 what are you doing at the dentist?

6 A The usually cleaning. It's x-rays.

7 Q If that's not covered by Medicare
8 are you asking Mr. Evans-Freke to pay the costs
9 until such time as the property is divided?

10 A Yes.

11 Q What other doctors?

12 A I have an eye exam.

13 Q Is that covered by insurance?

14 A I don't know.

15 Q If it's not covered by insurance,
16 again are you asking Mr. Evans-Freke pay that
17 expense until such time as the property is
18 divided?

19 A Yes.

20 Q Any other doctors?

21 A Yes, dermatologist.

22 Q Is that covered by insurance?

23 A I don't know.

24 Q Again, if that's not covered by
25 insurance are you asking that Mr. Evans-Freke

1 I go in there with a few bags to donate and I
2 come out with a few bags.

3 Q So, do you think that the clothes
4 that you have assuming there's 42 racks of them
5 would fetch \$50,000 if you sold them?

6 ATTORNEY CAPDEVILLE: Again,
7 I'm going to object to the leading nature of
8 that.

9 THE COURT: Objection
10 sustained.

11 BY ATTORNEY EVERT:

12 Q Okay, how much do you think you
13 could get if you sold your clothes.

14 A I have no idea. They're used
15 clothes.

16 Q Is there anything special about
17 these clothes?

18 A No.

19 Q But there's a lot?

20 A There's a lot of them.

21 Q Lets talk about all the money that
22 Attorney Capdeville said that you had. How
23 much cash do you have right now in a bank? Do
24 you have a bank account?

25 A Yes.

1 Q How many?

2 A Four.

3 Q Okay. Do you know what's in each
4 account?

5 A Yes.

6 Q So, let's go through account by
7 account and tell me approximately is in each
8 account.

9 A Okay, in the Chase account is
10 \$151,000 approximately. These are approximate.
11 I have a Citibank account that has a thousand
12 and something. I have another Citibank account
13 that has about 18.

14 Q 18 what?

15 A Thousand.

16 Q Okay.

17 A I have a Wells Fargo account that
18 has 6,000 and something, maybe \$300.

19 Q Anything else?

20 A Yes, I have my Provident Bank
21 checking account, but I'm not sure how much is
22 in that account right now.

23 Q So, the Chase account has \$151,000
24 in it?

25 A Yes.

1 Q Where is that -- that money is
2 available to you, correct?

3 A Yes.

4 Q Have you used any of that money to
5 pay any professionals in this case?

6 A Yes, I've used \$25,000.

7 Q To pay?

8 A To pay Greg Cowhey.

9 Q So, if you were to add 25,000 to the
10 151, that's what was in your account before you
11 paid Mr. Cowhey?

12 A Yes.

13 Q So, the question was asked and the
14 Court has a right to know why won't you use the
15 \$151,000 to pay your legal and professional
16 fees?

17 A Because that's all I have.

18 Q Why won't you use the \$151,000 to
19 buy a car?

20 A Because that's all I have.

21 Q The Citibank card there's two, one
22 of them has \$1,000 in it. Why won't you use
23 that money?

24 A Because that's all I have.

25 Q And then the other Citibank account

1 has \$18,000. Is there a reason you can't --

2 ATTORNEY HOLCOMBE: Objection,
3 leading.

4 THE COURT: Revise your
5 question.

6 BY ATTORNEY EVERT:

7 Q Are you willing to use the \$18,000
8 to pay your professional fees?

9 A No.

10 Q Why not?

11 A Because that's all I have.

12 Q Are you willing to use the 6,300 in
13 the Wells Fargo account to pay your
14 professional fees?

15 A No.

16 Q Do you have any stock?

17 A Yes.

18 Q Okay. How do you know that you have
19 stock?

20 A How do I know -- because I was told
21 that I have stock.

22 Q Do you know what the stock is worth?

23 A No.

24 Q Do you know how to sell stocks or
25 buy stocks?

1 A No.

2 Q So, if I were to proffer to the
3 court that Attorney Holcombe told me that you
4 had about 100,000 or maybe a little bit more in
5 stocks --

6 ATTORNEY HOLCOMBE: Objection,
7 leading.

8 ATTORNEY EVERT: It is leading,
9 but she doesn't know.

10 THE COURT: But you can't lead.

11 BY ATTORNEY EVERT:

12 Q Would you be willing to sell any
13 stock that you have to pay your professional
14 fees?

15 A No, because this is all I have
16 access to.

17 Q Do you have any retirement accounts?

18 A No.

19 Q Do you know if your ex-husband does?

20 A I don't know, sorry. I don't know.

21 ATTORNEY EVERT: Judge, we're
22 moving along. So, we're going to pull up your
23 financial affidavit which has been provided to
24 the Court.

25 THE COURT: Which is exhibit?

1 Q Okay, and in March do you recall how
2 you came up with that number?

3 A I had several large parties. I had
4 a sit down lunch for 28 people, a friend's
5 birthday party, and I had a dinner for 22, and
6 then I've had smaller dinners typically once a
7 week.

8 Q And when you have the parties do you
9 hire people?

10 A No, I cook myself.

11 Q And do you buy the materials?

12 A Oh, yes. I buy the groceries. I
13 buy the wine. I buy the flowers. I set the
14 table.

15 Q And has this expense gone up?

16 A Yes.

17 Q And why has it gone up?

18 A If you have go to a grocery store
19 you'll be shocked right now.

20 Q Okay. Let's move on to the next
21 entry which is number 14.

22 A Right.

23 Q Can you read what that entry is?

24 A It says monthly food and home
25 supplies.

1 see your doctors?

2 A I put Jerzy Grzymski in the car.

3 Q All right. First of all, slowly
4 spell his name.

5 A J-e-r-z-y. Grzymski,
6 G-r-z-y-m-s-k-i.

7 Q And who is this person?

8 A He is the man who helps us in Tuxedo
9 Park.

10 Q And how long has he been helping you
11 at Tuxedo Park.

12 A God, almost 15 years.

13 Q And who pays him?

14 A Stephen.

15 Q And do you know if he's paid a
16 salary or hourly?

17 A I believe he's paid a salary.

18 Q All right. How often does -- in the
19 past two months, how often has this Jerzy
20 person been to your house?

21 A It varies.

22 Q In the past two months, how often
23 has this Jerzy person been to your house?

24 A It varies.

25 Q So, when you go to New York to see

1 Q Okay, let's move to the next one,
2 number 63, what does that say?

3 A Monthly clothing estimate.

4 Q Okay, and what is the number that
5 you have there?

6 A \$2,000.

7 Q All right, why you have \$2,000 there
8 for clothing?

9 A I didn't know what to put there. I
10 know that Stephen put 2,000 for his clothing.
11 So, I just put it there. I don't spend \$2,000
12 person month on clothes.

13 Q Do you have an idea of how much you
14 spend per month for clothing?

15 A No.

16 Q Okay, do you know if it's more or
17 less than \$2,000?

18 A It's less.

19 Q So, are you asking the Court for
20 more money additional money because you need
21 more clothes?

22 A No.

23 Q Entertainment, number 64. Do you
24 see that?

25 A Yes.

1 after having been first duly sworn by the
2 clerk, testified as follows:

3 THE COURT: You may proceed,
4 attorney.

5 DIRECT EXAMINATION

6 BY ATTORNEY EVERT:

7 Q Good afternoon. Could you please
8 state and spell your full name?

9 A Yes, my name is Stephen, spelled
10 S-t-e-p-h-e-n. Evans-Freke. E-v-a-n-s hyphen
11 F-r-e-k-e.

12 Q And where do you reside?

13 A I reside at I6 Estate Nazareth.

14 THE COURT: Did you say I?

15 THE WITNESS: I6 Estate
16 Nazareth.

17 BY ATTORNEY EVERT:

18 Q And where is that locally?

19 A Cabrita Point.

20 Q With whom do you live?

21 A I live with my wife.

22 Q Who is your wife?

23 A My wife is Barbara Birt.

24 THE COURT: I'm sorry, the name
25 again?

1 A I'm trying to work it out.

2 Q I'm sorry. Go ahead.

3 A I'm very bad at dates. I have
4 difficult remembering my own birth date, but
5 dates are not my thing. I believe it was 2008,
6 2010 when he went back to Paris. When they
7 went back to Paris.

8 Q Okay.

9 THE COURT: She was asking you
10 his date of birth.

11 THE WITNESS: I'm sorry. So,
12 that would have been December 13, 2009 I
13 believe.

14 BY ATTORNEY EVERT:

15 Q Where does Veronique and Tristian --
16 do they live together?

17 A Yes, they do.

18 Q And where do they live?

19 A They live in Paris.

20 Q In the city or outside the city?

21 A In the city.

22 Q And you support them?

23 A I do.

24 Q Do they live in an apartment or a
25 house?

1 A They live in an apartment.

2 Q Do you own the apartment?

3 A No, I do not.

4 Q Do you pay rent?

5 A I pay rent.

6 Q How much is the rent in U.S.

7 dollars?

8 A It's --

9 Q It doesn't have to be exact.

10 A Yes, I know. I understand. It
11 comes to about \$5,000 a month.

12 Q So, since they moved back in 2010
13 have they been in the same apartment?

14 A They have.

15 Q Has the rent been consistently 5,000
16 or has it gone up?

17 A I should say I had to rent an
18 additional space a couple of years ago because
19 he's an Asperger's child, a-s-p-e-r-g-e-r.
20 Asperger's, they have -- he has significant
21 learning disabilities and he needed private
22 tutoring and in the context of an 800 square
23 foot apartment, there just wasn't room for him
24 to be privately tutored.

25 Q So, in the apartment they live in

1 now the tutor can come?

2 A No, it's an extra space that's just
3 literally less than a 100 meters way. There's
4 where he gets tutored.

5 Q How large is the apartment?

6 A The main apartment is 80 square
7 meters. That's 800 square feet, and the other
8 one is probably 50 meters, 500 square feet.

9 Q And your attorney earlier says that
10 Tristian needs 24 hour care if I heard him
11 correctly, is that true?

12 A He has -- he's a lovely boy, but he
13 has very little control over his behavior, and
14 I certainly wouldn't want to leave him alone
15 because he could really damage himself.

16 Q Does he put other people at risk
17 with his behavior?

18 A That's one of the problems we have
19 with him in school that's quite common in
20 Asperger's children that they're not aware of
21 when they're inflicting pain on other people.
22 They don't really realize that they're doing it
23 and they don't understand pain.

24 Q Does Tristian attend school in
25 Paris?

1 A He now attends a small private
2 charter school that specializes in children
3 with learning disorders.

4 Q And how much is that school?

5 A It's like 2,000 euros. So, it's
6 more than \$2,400 or \$2,300 a month.

7 Q Does Tristian have any other
8 expenses that you pay for per month?

9 A Yes. I pay for the private tutoring
10 in addition to the school, and he goes to
11 egernom what they call it, eger -- it's
12 basically special tutoring to try and teach
13 them social behavior.

14 Q How much does that cost?

15 A It's all lumped together because I
16 sent extra money for that. So, let me come
17 back to that because he also has dyslexia. So,
18 he needs special tutoring for reading and
19 what's the other one called where they have
20 numbers. Dealing with numbers. There's
21 another one. There's three specialty tutorings
22 which he gets which I pay for as well.

23 Q So, do you send Veronique money
24 every month or do you --

25 A Yes.

1 BY ATTORNEY EVERT:

2 Q What is Daniela's name and could you
3 spell that for us?

4 A Yes, indeed. Daniela,
5 D-a-n-i-e-l-l-a. Kauffman, K-a-u-f-f-m-a-n.

6 Q And who is she?

7 A Daniela Kauffman. She is both the
8 comptroller for Auen, A-u-v-e-n Therapeutics
9 Management Company, which is my primary company
10 here in the Virgin Islands. It's an EDC
11 company and she also looks after the personal
12 affairs of the two general partners.

13 Q And who are they?

14 A I'm one of them and Dr. Peter Coor,
15 C-o-o-r, is the other managing partner.

16 Q Where does Dr. Coor live?

17 A He lives here in St. Thomas. It's
18 in the east end near the yacht club.

19 Q So, I just want to be clear. Your
20 personal bills as far as you know are paid by
21 Daniela, the comptroller. She takes care of
22 your personal affairs through the Merchants
23 bank account?

24 A Correct.

25 Q Do you know the last four digits of

1 interesting stuff from my perspective. Tell me
2 how intense your day is. Basically, what do
3 you do with your life? You're traveling
4 around. A couple weeks ago, you advised the
5 Court that you were going to be in San Diego,
6 Los Angeles --

7 THE COURT: Attorney Evert,
8 you've asked him the question what does he do?
9 Give him a chance to answer.

10 ATTORNEY EVERT: Well, I was
11 sort of general. I wanted to make sure he
12 understood.

13 THE COURT: We'll see if you
14 give him a chance.

15 BY ATTORNEY EVERT:

16 Q Work wise, what do you do with your
17 life?

18 A Work wise I manage a private equity
19 firm, Auvén.

20 Q And when was that firm created?

21 A In 2008 was the initial closing.
22 And we raised money -- in total we raised 228
23 million, but we closed that in 2011 I believe.
24 So, the fundraising was between 2008 and 2011.

25 Q And what do you do? What's your

1 role?

2 A Well, I run the firm and we develop
3 pharmaceutical products, basically cancer, but
4 also other areas.

5 Q And what are the other areas?

6 A Eye diseases. A disease called
7 sarcoidosis.

8 Q Maybe you need to spell that for us?

9 A S-a-r-c-o-i-d-o-s-i-s.

10 Q What other projects are in the
11 pipeline that you're allowed to discuss?

12 A We're no longer making new
13 investments. We're in wind down mode,
14 harvesting. So, we're not making new
15 investments now.

16 Q Do you participate in the management
17 or operation of any other corporation. I'm not
18 talking about non-profits?

19 A Well, I'm heavily involved in the
20 management of the company that we're investing
21 in -- it's called ADC Therapeutics.

22 Q Where is that company located.

23 A It's headquartered in Lausanne,
24 Switzerland with research and development
25 activities in London. U.S., it's clinical and

1 A I get directors fees.

2 Q And how much are they?

3 A I was trying to remember that this
4 morning. It's probably around \$60,000 a year.

5 Q Do you have stock in this company?

6 A I have personally a few -- some
7 shares which I bought at the IPO to show
8 symbolic support.

9 Q So, how many shares did you purchase
10 in the IPO?

11 A 3,500 shares I believe. Yes, 3,500
12 shares.

13 Q And how much did you pay for those
14 3,500 shares?

15 A It was the initial offering. So,
16 that was at \$19 a share.

17 Q So, what's the total for that?

18 A You're testing my -- what it would
19 be about 70,000. It would be just less than
20 70,000.

21 THE COURT: I'm sorry. Repeat
22 that again.

23 THE WITNESS: 3,500 shares at
24 \$19 a share. So, 20, that would be 70,000.
25 So, it's just below 70,000.

1 BY ATTORNEY EVERT:

2 Q So, do you have other stock, private
3 or public?

4 A I have -- not public, but private,
5 yes.

6 Q Okay. Please tell me about that.

7 A I have a -- I think it's about a 12%
8 stake in a company I founded here called AeroMD
9 which is the air ambulance company serving the
10 Virgin Islands community.

11 Q We're definitely familiar with it.
12 How many planes does that company have?

13 A Three at the moment. We're about to
14 go up to four planes.

15 Q Are you able to use the planes and
16 pilots if you have personal trips?

17 A No, I'm chairman of the board, but I
18 do not use the air ambulance planes as my
19 private jets.

20 Q Who owns the other stock in AeroMD?

21 A Well, this is not public
22 information. So, but I guess the information
23 is protected.

24 THE COURT: The record is
25 sealed.

1 company up.

2 Q What other companies do you hold
3 stock?

4 A I am the largest shareholder in the
5 Water Island Development Company.

6 Q And tell us what that is?

7 A It's a company that has the lease
8 from the U.S. Virgin Islands Government on the
9 old hotel property on Water Island and it's a
10 lot of surrounding acreage and we are
11 developing at resort and marina village concept
12 on Water Island.

13 Q What stage of development is it?

14 A We're in the process of preparing
15 the permitting package for submission to the
16 federal and territorial authorities.

17 Q You're going to build the marina
18 before you build the hotel? How is that
19 happening?

20 A No, the two are intimately bound
21 together. So, it will be a resort and marina
22 and waterfront housing and other villas, etc.

23 Q And you're the sole shareholder?

24 A No I'm not. Dr. Barber is a
25 significant shareholder in that. The same

1 A Hopefully barring any problems.

2 Q How much per bottle will it sell
3 for?

4 A \$175 per bottle.

5 Q U.S.

6 A Yes.

7 THE COURT: You said 135?

8 ATTORNEY EVERT: No.

9 THE WITNESS: 175.

10 BY ATTORNEY EVERT:

11 Q So, explain to us what a sipping gin
12 is.

13 A It's something you don't dilute with
14 tonic water. It's used like for a dry Martini
15 drinker.

16 Q Okay.

17 A And we just won a silver medal at
18 the San Francisco World Spirit Festival which
19 is the most prestigious world competition in
20 the spirit industry.

21 Q Do you know at least now how many
22 bottles you plan to launch?

23 A Yes, as a matter of fact producing
24 one thousand bottles this year. We're
25 producing 2,000 bottles as it will be a

1 slightly different recipe and so we're planning
2 to keep back some from each year so down the
3 road we can sell it --

4 THE COURT: So, down the road
5 you can sell?

6 THE WITNESS: The plan is where
7 people collect one of each year. So, it's --
8 rare spirits there are people who pay a lot of
9 money for these verticals from each year.

10 ATTORNEY EVERT: Make it
11 collectible?

12 THE WITNESS: Yes.

13 BY ATTORNEY EVERT:

14 Q What is the reason that you started
15 the gin business?

16 A Well, it's part of what I'm trying
17 to do in Ireland. I'm 70 years old today.

18 THE COURT: Today?

19 THE WITNESS: It's not my
20 birthday today. March was my birthday, but I'm
21 70 years old and I've given myself five more
22 years to get to the point where Ireland washes
23 its face and not be a financial burden on my
24 sons when they take over. So, I'm developing
25 the gin distillery to be a source of income.

1 A So, all of this is to make sure that
2 this place is not a financial burden for our
3 sons when they take it over.

4 Q So, tell me what is presently when
5 you purchased Castle Freke, is it true that it
6 was just a ruin?

7 A It was truly just a ruin. You had
8 only a madman would have thought of trying to
9 restore it.

10 Q And today what does it look like,
11 are there windows?

12 A There are windows if you look into
13 it from one side, but there is more than one
14 side to the castle.

15 Q Is there a roof?

16 A There is a roof. We've got a good
17 roof on it finally. We built a good roof on it
18 and it's waterproof at this point.

19 Q How about the interior, what have
20 you done to that?

21 A We've been putting in a small team
22 of working class people who are putting in
23 highly decorative plaster ceilings.

24 Q Master ceilings?

25 A Plaster ceilings.

1 Q Oh, plaster ceilings, how many rooms
2 have been plastered so far with the artwork?

3 A Well the main staircase plus two
4 rooms. So, the ballroom probably.

5 Q What else has been done to the
6 inside; is there a kitchen?

7 A No.

8 Q Is there any bathrooms?

9 A No.

10 Q Do you hold events there?

11 A Occasionally, yes. And we bring in
12 temporary toilets to service them.

13 Q Rather than me guess, why don't you
14 tell me. What else is inside that wasn't there
15 when you first purchased it.

16 A I think we lined from the top to
17 bottom close to 50 chimneys.

18 THE COURT: Close to what?

19 THE WITNESS: 50 chimneys in
20 the castle.

21 Q And do they now work?

22 A Yes, they do.

23 Q Do they keep the place warm in the
24 winter?

25 A There's no fireplaces underneath

1 there except for two of them have fireplaces.
2 You must remember there aren't any windows at
3 one side of the castle. The rest are open to
4 the elements.

5 Q Okay, so what is the purpose of all
6 these chimneys if there is air coming in on one
7 side?

8 A We didn't build the chimneys we're
9 just lining them. They were there originally
10 when they built the castle.

11 Q I understand. What's the ultimate
12 goal?

13 A The ultimate goal is for that place
14 to be a venue for celebrity weddings and other
15 such social events. It will be one of the
16 primary tourist destinations in the area and
17 that's why it will become hopefully a good
18 revenue generator.

19 Q Do you plan on having places where
20 if there's a destination wedding where people
21 could sleep there?

22 A Yes, on the upper floor, there will
23 eight really lovely bedrooms available.

24 Q Are there walls around the castle?

25 A I should explain how this space was

1 Q With Auven?

2 A Yes, and it would be primarily with
3 Auven. That's correct.

4 Q And did it come from anywhere else?

5 A I've been forced to sell various
6 interests over the last several years to keep
7 things going. So, I can't tell you exactly
8 what but I have sold some -- I sold some Cibus
9 shares.

10 THE COURT: You sold?

11 THE WITNESS: Some shares in
12 Cibus. It's the company that Valerie has some
13 shares in, Your Honor.

14 BY ATTORNEY EVERT:

15 Q Could you spell it?

16 A C-i-b-u-s. Cibus Global, LLC. It's
17 an agricultural biotechnology company which I
18 actually founded in 2,000 and was chairman for
19 a number of years.

20 Q I just want to be clear. We went
21 through some bank accounts that you said are
22 just in your name, correct?

23 A Uh-huh.

24 Q Yes?

25 A Yes.

1 Q And I think it was your position
2 that you have no joint personal accounts with
3 anybody; is that correct other than maybe for a
4 year?

5 A Yes, that's correct.

6 Q Over the past eight years have you
7 had any joint accounts with any person other
8 than Veronique?

9 A Well, I just remembered that there
10 is still the one joint account in Ireland which
11 is still in Valerie and my name?

12 Q Is there any money in there?

13 A I believe there's about 3,000 euros
14 in there, but I have not been able to figure
15 out how to unlock it. It's been frozen for a
16 long time.

17 Q You heard Valerie testify that her
18 personal things were left in either Rathbarry
19 or Castle Freke. Earlier she said that?

20 A Not at Castle Freke. I think she's
21 referring to Rathbarry.

22 Q Okay. Did you put her personal
23 items somewhere where they're secured today or
24 not?

25 A No.

1 United States in excess of \$2 million, and in
2 response do you recall saying in writing when
3 all the liabilities are taken into account, my
4 net worth is in quotes substantially more than
5 \$20 million?

6 A I don't recall it.

7 Q You don't recall it?

8 A No.

9 Q Well, we'll move on then. Sir, the
10 year that this decision came out, what would
11 you have estimated your net worth as?

12 A I don't recall my net worth has been
13 in excess of 20 million for most of the time of
14 the last ten years. Not today, but it was
15 then.

16 Q So, a year ago, what was your net
17 worth?

18 A I don't recall precisely. I don't
19 keep these numbers in my head, but I could tell
20 you it's a lot more than it is today.

21 Q Okay, what is it today?

22 A I don't know what my net worth is
23 today, but I will tell you that the primary
24 asset within Auvon is part of the meltdown in
25 the global biotechnology sector that has wiped

1 out hundreds of millions of dollars of value in
2 the 12 months, and in particular in the last
3 six months.

4 Q Sure.

5 A And the primary asset within Auen
6 is ADC Therapeutics. The share price has gone
7 from \$46 to \$6.50 particularly in the last
8 three or four months, there's been a massive
9 short bear raid to sell. The company is now
10 selling for less than its cash value.

11 Q Sir, you're not responding --

12 A I am responding to your question.

13 Q Sir, I'm asking about your net
14 worth.

15 A I'm addressing that.

16 Q When was the last time you knew what
17 your net worth was?

18 A As of March 31st I think it was.

19 Q As of March 31st. And what was your
20 net worth then?

21 A I don't recall the precise number.

22 Q What was it approximately?

23 A I think it was 25 million or
24 something like that.

25 Q 25 million?

1 Q So, can you tell us?

2 A It includes mortgage payments on the
3 house, property taxes. Insurance, heating oil.
4 Utilities. Her personal telephone bills. Her
5 vet bills, car maintenance, tax payments,
6 Medical --

7 Q Let me ask you this --

8 A Also uninsured medical expenses and
9 club expenses. Virtually everything including
10 the \$10,000 a month that I've been giving her.

11 THE COURT: I'm sorry,
12 including?

13 THE WITNESS: The \$10,000 a
14 month that I've been giving her.

15 Q So, other than the \$10,000 a month,
16 everything else is connected to the status quo
17 order, correct?

18 A I have to reread the status quo
19 order, and by the way there's two status quo
20 orders. There's the New York one and this one.

21 THE COURT: The Court is only
22 concerned with the V.I. court order.

23 THE WITNESS: I can't tell you
24 whether everything in 2019 relates to that.

25 BY ATTORNEY EVERT:

1 Q And you and Valerie are both on the
2 deed in Tuxedo Park, correct?

3 A Correct.

4 Q And there's a mortgage, correct?

5 A There is a mortgage on it, yes.

6 Q Are you the only one responsible for
7 it or is technically Valerie also on the
8 mortgage?

9 A She's on the mortgage, too.

10 Q And do you consider Tuxedo Park to
11 be a marital asset?

12 A It's a marital asset from a legal
13 point of view, but the only reason why we own
14 it today is because Valerie is living there.

15 Q Understood, but what it shows on the
16 document is that you're attributing to Valerie.
17 Are you considering these expenses to be
18 support payments?

19 A Yes.

20 Q So, you pay the mortgage and you pay
21 things under the status quo. You're paying
22 that support for the marital assets?

23 A The only reason why we have the
24 house is because she's living there. It would
25 be crazy not to consider that support for her.

1 Q Is it your asset, yes or no?

2 A It's a negative. Well, actually,
3 I'm not sure whether it's a real asset. The
4 debt against it is so significant.

5 Q All right. Are the castle an
6 assets?

7 A Castle Freke definitely is a
8 liability rather than an asset.

9 Q Okay, and you're pouring millions of
10 euros into it, right.

11 A To make it profitable.

12 Q But right now it's not profitable,
13 correct?

14 A Correct. Yes.

15 Q So when it says expenses, the
16 support that you've been giving Valerie is
17 \$10,000 a month, correct?

18 A In addition to all the bills that I
19 pay for her and the cost of the property she
20 lives in.

21 Q It's for your asset, correct?

22 A No, the only why I have that asset
23 is so she'd have somewhere to live.

24 Q And you locked her out of the
25 castle, correct?

1 A I told her a long time ago if she
2 leaves me alone in Ireland, I'll leave her
3 alone in Tuxedo.

4 Q All right, but legally, they're
5 still her castles as much as they're yours, is
6 that correct?

7 A Well, actually no, the castles are
8 the property of -- well, Castle Freke Trust.
9 They're owned by a trust.

10 Q And who's in charge of the trust?

11 A I am.

12 Q Oh, so you created a trust when?

13 A A few years ago. I bought the debt
14 -- the mortgage, we had a lot of debt on the
15 Irish properties, and the Irish bank sold a
16 whole bunch of it underwater mortgages to a
17 U.S. private equity firm, Cerberus and I bought
18 -- I gave the money -- I sold some carried
19 interest in Auven in order to raise the money
20 to bullet it into a trust to enable it to buy
21 out the debt from Cerberus and that's how the
22 trust came to be the owner of the properties?

23 Q But prior to you doing all those
24 hoops, that was a marital asset?

25 A Yes, it would have been a marital

1 asset.

2 Q And you transferred out Valerie's
3 interest without her permission or consent,
4 correct?

5 A No, I didn't.

6 Q Did she sign up on it?

7 A Cerberus, I was the securer of the
8 collateral. I borrowed the money. Valerie
9 wasn't on the -- Valerie is not on the property
10 ownership, never was.

11 Q Sir, do you understand. You're a
12 lawyer, didn't you train as a lawyer?

13 A I have a law degree. I never
14 practiced law.

15 Q Do you understand who's on the deed
16 doesn't note who has a legal interest or an
17 equitable interest, do you understand that
18 concept?

19 A I'm not sure that I would be or have
20 sufficient knowledge to define -- delineate the
21 difference between those two.

22 Q So, Valerie was never on the deed to
23 the castles or Rathbarry, but it was purchased
24 while you were married and she made
25 contributions to it even if she's not on the

1 arrangements from your firm?

2 A I did?

3 Q And what is your hourly rate?

4 A My hourly rate is \$600.

5 Q And what is the hourly rate of the
6 other members -- do you have what's called a
7 team?

8 A We do.

9 Q Okay. What is the -- well, let me
10 ask you this first. Who is in your team that
11 handles this case?

12 A I have -- in my Philadelphia office,
13 I have a team of 10 not including me.

14 Q And do you know what the hourly
15 rates are for your team?

16 A The hourly rate ranges from the
17 youngest associate at \$210 or \$220 an hour to a
18 more experienced associate \$350 an hour.

19 Q Do you perform all the analysis
20 yourself, or is it spread around the team?

21 A Spread around the team.

22 Q And how do you determine who gets
23 what task?

24 A I would assign the task based on my
25 review of the circumstances and what I feel

1 needs to be done and which associate would have
2 A, the time and B, the skill set.

3 Q Is there a concept in your business
4 known as a blended hourly rate?

5 A There is.

6 Q Okay, could you please explain to
7 the Court the concept of a blended hourly rate?

8 A By virtue of assigning tasks to
9 different members of the team who have specific
10 billing rates. Not all the work is done at my
11 rate, but I will assign it to younger
12 associates.

13 As a result of the leveraging
14 of that task, engagements like that have a
15 blended hourly rate of approximately \$300 per
16 hour.

17 ATTORNEY EVERT: Your Honor,
18 I'm going to move that the CV be admitted as
19 Exhibit 19.

20 THE COURT: Any objection?

21 ATTORNEY HOLCOMBE: No
22 objection.

23 ATTORNEY EVERT: All right.

24 THE COURT: It will be admitted
25 as Exhibit 19.

1 you go for now, but I'm reminding you it's
2 limited to Mr. Freke's ability to pay.

3 ATTORNEY EVERT: So,
4 Mr. Cowhey, did you hear that?

5 ATTORNEY HOLCOMBE: Your Honor,
6 I have an objection. May I be heard?

7 THE COURT: You may be heard.

8 ATTORNEY HOLCOMBE: Your Honor,
9 I don't think it's appropriate to offer
10 Mr. Cowhey as an expert with regards to
11 Mr. Freke's ability to pay. He just testified
12 he hasn't had a full review of the documents at
13 issue here. In fact, he said he's only has
14 initial research of entities at this point.
15 So, his testimony at this stage of the
16 proceedings wouldn't necessarily be incomplete
17 and not conclusive at this point.

18 THE COURT: He's an expert in
19 his own right. Whether he is able to speak a
20 thoroughly about Mr. Freke's assets is another
21 issue and that's for the Court to determine
22 whether his testimony is sufficient to
23 determine Mr. Freke's ability to pay.

24 You're basically making the
25 same objection that you made before.

1 ATTORNEY EVERT: All right.

2 Okay.

3 THE COURT: The document is
4 admitted into evidence and the Court will give
5 it appropriate weight.

6 BY ATTORNEY EVERT:

7 Q Mr. Cowhey, have you received a
8 retainer, a fee retainer from Valerie?

9 A Yes.

10 Q Your firm received it?

11 A Yes.

12 Q Do you know how much that was?

13 A \$25,000.

14 Q What are you asking -- what do you
15 require to continue after the \$25,000 is spent.
16 Actually, that was a terrible question. Let me
17 rephrase it. What do you envision the work
18 that you're going to need to do, the literal
19 roadmap. What do you require to proceed, and
20 how do you intend to proceed if you receive
21 those documents?

22 A First off, we have an initial
23 itemized document request out there. That
24 would be our starting point. Once we get that
25 information, we would review those documents.

1 We may have one or more supplemental discovery
2 requests.

3 Part of this is you learn some
4 more and they may point to other documents. We
5 bill for our time. You know, time is money.
6 Last month I think the billings were about
7 \$6,000.

8 This is a heavy asset case and
9 there's several assets that are, in my view,
10 deserving of significant analysis to understand
11 what they are, what money was invested in them.
12 What the values of those assets are, and what's
13 the income producing capability of those
14 assets. So, this is a rather large
15 undertaking.

16 THE COURT: I don't think
17 you've answered the question. She's asked you
18 what do you anticipate is the cost.

19 ATTORNEY EVERT: Well, I didn't
20 ask him the cost yet. So, if you received
21 these documents, what do you expect time wise.
22 I realize you don't have a crystal ball, what
23 you do you anticipate it's going to cost to do
24 everything.

25 THE WITNESS: Our initial

1 ATTORNEY NAGI: Okay, we're
2 pulling up No. 29.

3 (Respondent's Exhibit 29
4 displayed on video monitor)

5 ATTORNEY EVERT: Can you
6 identify this document?

7 THE WITNESS: Yes, that was an
8 invoice that we sent out for services rendered
9 through March 28, 2022.

10 BY ATTORNEY EVERT:

11 Q And this was based on the hours?

12 A It was based on 4.2 hours during the
13 month of February and March.

14 Q And this was the initial invoice for
15 Valerie's case, correct?

16 A That is correct.

17 ATTORNEY EVERT: We offer this
18 into evidence, Your Honor.

19 THE COURT: This is
20 Respondent's Exhibit 29. Any objection?

21 ATTORNEY HOLCOMBE: No, Your
22 Honor.

23 THE COURT: No objection. It
24 will be admitted.

25 (Respondent's Exhibit No. 29

1 Q Good evening Mr. Cowhey, my name is
2 Justin Holcombe and I represent Stephen
3 Evans-Freke. Before I begin, I'd like to ask
4 you -- I note that Attorney Evert said you
5 recently underwent some medical procedure. Are
6 you on any kind of medication that would impact
7 your ability to understand my questions?

8 A No.

9 Q And you stated that you're currently
10 employed by RSM; is that correct?

11 A I'm technically a partner. I'm not
12 an employee.

13 Q Okay. And is it correct that RSM is
14 a public accounting firm?

15 A It is.

16 Q And are you a certified public
17 accountant?

18 A I am not.

19 Q Are you an attorney?

20 A I am not.

21 Q Okay. Among the things that you
22 testified about what that you do principle
23 financial investigations and dispute services.
24 Is it fair to say that that means your focus is
25 on forensic investigations?

1 review of his financial statements. There's
2 different standards. They don't apply in this
3 circumstance.

4 Q Okay, and are you familiar with the
5 standards of the Public Company Accounting
6 Oversight Board, PCAOB?

7 A I am familiar with PCAOB, yes.

8 Q Okay, do you apply those standards?

9 A They're not standards. They oversee
10 the audit and they make inspections as to
11 auditing that is performed. Since this isn't
12 an audit I would not be subject to an
13 investigation or subject to a PCAOB review.

14 Q Okay. So, basically there's no
15 rules or standards that you're going to be
16 following in this instance that's published by
17 a particular body?

18 A No, there's no rules or standards
19 because there's no regulation of them. There
20 are guides and practices aids issued by the
21 American Certified Public Accountants, the
22 National Association of Certified Valuation
23 Analysts, the American Society of Appraisers.

24 Those would be the three
25 organizations that actually have bodies of

1 practice aids, and if you're going to be
2 performing an evaluation the ASA would have
3 standards and the NACVA, N-A-C-V-A would have
4 standards.

5 Q And would you be following those
6 standards?

7 A Yes.

8 Q Okay, and would you prepare a report
9 on Mr. Evans Freke's financial statements after
10 reviewing that?

11 A It depends if I'm asked to do that.

12 Q Have you been asked to do that?

13 A Not as yet.

14 Q Okay. Do you have expertise in
15 valuing Irish real estate?

16 A I don't value real estate, but we
17 have identified parties in our office in RSM
18 Ireland to value real estate if it's needed.

19 Q What about jewelry, do you have
20 experience valuating jewelry?

21 A No, we would engage third party
22 gemologists to do that.

23 Q What about luxury clothing?

24 A I have not done luxury clothing
25 before. But to the extent that would be

1 Q Mr. Cowhey, are you licensed to
2 practice accountancy or any kind of public
3 accounting in the U.S. Virgin Islands?

4 A No, I'm not licensed here.

5 Q Where are you licensed?

6 A I don't hold a certified public
7 accounting license.

8 Q Well, do you have any professional
9 licenses?

10 A I have certifications.

11 Q Very well. Who issues those
12 certifications?

13 A The American Society of Appraisers,
14 National Association of Certified Valuation
15 Analysts, and Certified Fraud Examiners.

16 Q Do you have any sort of disciplinary
17 records with any professional boards?

18 A I do not.

19 Q Do you have a business license in
20 the U.S. Virgin Islands?

21 A Any business license will be held
22 through RSM Virgin Islands.

23 Q Does RSM have a business license in
24 the Virgin Islands?

25 A I would have to check with that at

1 this point. I don't have the records on that.

2 Q Okay. Now, have you reviewed the
3 rules and regulations promulgated by the Virgin
4 Islands Board of Public Accountancy?

5 A I have not.

6 Q Why did you not fail -- why did you
7 fail to review those rules?

8 A Because they don't apply to the
9 services we're providing.

10 Q If you haven't reviewed them, how
11 can you determine that?

12 A Because I know what they are. I
13 reached out to what they were. Once I figured
14 out what it is commonly referred to as attest
15 services. What we're performing here is not an
16 attest service.

17 THE COURT: One minute.
18 Attorney Holcombe. What kind of service,
19 repeat again?

20 THE WITNESS: Attest.
21 A-t-t-e-s-t.

22 THE COURT: Thank you.

23 BY ATTORNEY HOLCOMBE:

24 Q Have you reviewed the laws of the
25 Virgin Islands to determine if a license is

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

STEPHEN EVANS-FREKE,)	
)	
Petitioner,	)	Family No.
	)	ST-16-DI-166
v.)	
)	
VALERIE EVANS-FREKE,)	
)	
)	
Respondent.)	

Transcript
Motions Hearing
June 3, 2022

BEFORE: DEBRA S. WATLINGTON
Judge Presiding

APPEARANCES: ANDREW CAPDEVILLE, ESQ.
JUSTIN HOLCOMBE, ESQ.
(For the Petitioner)

JULIE EVERT, ESQ.
LAURA NAGI, ESQ.
(For the Respondent)

1 Q All right. Let me just back up a
2 little bit here. For 20919, you show total
3 Auven distributions of \$4.2 million in claims,
4 correct?

5 A Yes.

6 Q And 2020, that number increased to
7 what?

8 A To 6 million 83. In 2020 there was
9 a carried interest distribution which is the
10 main difference as well as limited partner
11 distributions.

12 Q All right, and what happened in
13 2021. It looks like a decrease?

14 A Yes, there was no carried interest
15 distribution. We did not get many transaction
16 fees. So, it goes up and down and you cannot
17 know from the year to see how much
18 Mr. Evans-Freke will get even next year. It's
19 up in the air.

20 Q Okay, and then starting with the
21 column on the left that has social security,
22 UPS pensions, you have some additional numbers.
23 You have see that?

24 A Yes.

25 Q And so those numbers for 2019, 2020,

1 Q If I may interrupt you. I just want
2 to get back go the ADCT shares.

3 ATTORNEY EVERT: Hold on, Your
4 Honor.

5 THE WITNESS: Okay.

6 ATTORNEY EVERT: Your Honor,
7 we're dealing with delays in communication and
8 if Attorney Capdeville can let her finish.

9 THE COURT: Well, he just asked
10 to interrupt her. That's his prerogative.

11 BY ATTORNEY CAPDEVILLE:

12 Q Thank you. I just want you to go
13 back to the purchase of the ADCT shares. Do
14 you see that?

15 A Yes.

16 Q And it has for 2020, 131,100?

17 A Yes.

18 Q I don't see that for 2021. Can you
19 tell us why that is?

20 A There was an IPO of ADCT in 2020. I
21 believe it was in May 2020, and Mr. Evans-Freke
22 participated in that IPO.

23 Q When you say he participated in
24 that, what does that mean? Explain that to the
25 Court, please?

1 A He purchased the shares.

2 Q Okay.

3 THE COURT: And for the record
4 what is IPO?

5 THE WITNESS: When a company
6 goes public, then everybody can purchase shares
7 in that company.

8 THE COURT: And what does IPO
9 stand for?

10 THE WITNESS: Initial Public
11 Offering.

12 THE COURT: Thank you.

13 BY ATTORNEY CAPDEVILLE:

14 Q So, we see that the 131,000 number
15 is there for 2020. Why is it not there for
16 2021?

17 A Well, this is actually an expense.
18 This is a not an income. So, this is basically
19 what this report is, it's a cash in and a cash
20 out flow and so that was a -- when the stocks
21 were purchased. So, 131,000 was used to buy
22 these stocks.

23 Q And as of today do those stocks have
24 any value?

25 A A lot less value. The current stock

1 price is \$6.80, something like that, and when
2 he purchased them they were \$19.00. So, it's
3 about a third.

4 Q All right. When you look at the
5 capital investments when it shows on the bottom
6 total investments, do you see those numbers for
7 those same years?

8 A Yes.

9 Q Okay, again just -- just walk us
10 through that. How did those numbers, how did
11 you reach these numbers?

12 A For example, for Castle Freke Farms
13 and the distillery we have to send weekly money
14 for payroll for the employees. So, that's
15 usually the same. The number went down a
16 little bit in 2020 because in Ireland, the
17 Irish Revenue provided support for COVID and
18 well therefore the investments needed to pay
19 for them was lower.

20 Q Okay, and then what happened to that
21 same investment for 2021?

22 A The same things. You know, some of
23 the funds are used to rebuild the castle. So,
24 there are times when you need to purchase the
25 material. There's more costs versus just

1 You see a line for Tristian and Veronique -- my
2 throat is dry --

3 A Yes.

4 Q -- but it's Veronique. But I'm
5 trying to get the nique in there? Can you tell
6 us what was going on with those expenses
7 between 2019 and 2021?

8 A These are basically payments to
9 Veronique to support her and Tristian,
10 Stephen's son. They are rent payments as well
11 as school fees.

12 Q Okay and can you tell us -- I'm
13 sorry, go ahead.

14 A I said they went up because of
15 Tristian's disability. He needed another place
16 to do his school work as I understood.

17 Q Okay, and you have a line for
18 Roland?

19 A Correct.

20 Q Can you explain again the numbers
21 from 2019 to 2021 and if there's any
22 difference?

23 A The payments to Roland are for his
24 apartment and support. They were relatively
25 low speaking for a while but then during COVID

1 he had I guess an episode, mental problems.
2 And so in 2021 a lot of expenses were for his
3 medical care and to help him establish so he
4 can live by himself again.

5 Q And again these numbers that you
6 have on this expense sheet. These are moneys
7 that -- who paid? Who paid these moneys for
8 Roland?

9 A Stephen. It all comes out of
10 Stephen's --

11 Q Did anyone else help him or assist
12 him in these payments, if you know?

13 A No.

14 Q Okay, what about Yorick, what can
15 you tell us about his payments between 2019 and
16 2021?

17 A Stephen supports him so he can
18 hopefully, you know, make his startup company
19 successful, and so he can support his family.

20 Q Okay, and what is meant by these
21 other Irish expenses?

22 A That's just expenses when Stephen
23 several months out of the year lived in Ireland
24 especially during the hurricane season and
25 these are all expenses when he goes to eat or

1 when he travels or any other expenses.

2 Q Can you tell us the reason, if any,
3 for the difference between the expenses he
4 incurred until 2020 and the expenses that he
5 incurred in 2021?

6 A In 2020 he spent a lot of time in
7 Ireland due to COVID. In 2021 he did not spend
8 that much time there.

9 Q Okay, and the next line it says
10 divorce legal fees and I see it's been yellowed
11 out on yours, do you have any information
12 regarding the amount of money that Stephen pays
13 for divorce fees, and again before you answer
14 that --

15 THE COURT: Attorney
16 Capdeville, you're referring to something not
17 in the exhibit?

18 ATTORNEY CAPDEVILLE: Yes, I'm
19 just asking her if she has the information.

20 THE COURT: Okay.

21 THE WITNESS: Yes, I have
22 information.

23 BY ATTORNEY CAPDEVILLE:

24 Q Do you have information as to what
25 Stephen spent in the New York divorce? Not the

1 A That's correct.

2 Q Okay. But as you sit here today,
3 can you tell us what Valerie's position is if
4 you know regarding that account?

5 ATTORNEY EVERT: Objection,
6 Your Honor. Asked and answered.

7 THE COURT: She already stated.

8 ATTORNEY CAPDEVILLE: Okay, I
9 just want to make sure. I want to go through
10 and see where you have the total assets. You
11 see that column?

12 THE WITNESS: Yes.

13 BY ATTORNEY CAPDEVILLE:

14 Q And what is the number that you
15 have?

16 A 44 million.

17 Q Okay, and of that \$44 million, how
18 much of that is available for Mr. Stephen
19 Evans-Freke's use?

20 A The cash, well as of March 31st is
21 67,000. None of the other investments are
22 easily liquidated.

23 THE COURT: I'm sorry. Repeat
24 that, please?

25 THE WITNESS: Only really the

1 funds, financial statements. A different team
2 of Auven handles that and Ernst & Young I
3 believe is the auditing firm for the funds.

4 Q Thank you. Are you aware if Stephen
5 has ever been audited?

6 A I believe he has been audited
7 before. His tax returns, as far as I know,
8 there was no changes. It was a while back.

9 Q From the financial records which you
10 have prepared and we have reviewed, can you
11 tell the Court how many dependents or how many
12 people depend on support from Stephen at this?

13 A Well, there is Tristian and
14 Veronique. There is Valerie. There is Roland.
15 There is Yorick. There's also Barbara.

16 Q Has Stephen ever expressed to you a
17 desire to discontinue supporting these
18 dependents?

19 A No, quite the opposite. He always
20 tries to make sure that all his dependents are
21 taken care of.

22 Q Okay. At the present time, do you
23 know whether or not Stephen has any tax
24 liabilities?

25 A He does.

1 been a payment recently?

2 A We don't -- well, there's more bills
3 than there are funds available. So, we are
4 juggling to make sure, you know, the most
5 important get paid.

6 Q When you say that there haven't
7 been any tax payments recently, how recent are
8 we talking about? When did the payments stop
9 to the IRA and IRB if you know?

10 A I believe around October last year.

11 Q Okay. Do you know if any penalty
12 has been assessed against Stephen for not
13 making the payments?

14 A I'm sure, but we haven't received a
15 statement.

16 Q Okay. To your knowledge, does
17 Stephen have any plans to bring his tax
18 liability current?

19 A I'm sure he will once he has, you
20 know, the cash available to make any payments.

21 ATTORNEY EVERT: Objection,
22 Your Honor. Calls for speculation.

23 THE COURT: It does.

24 BY ATTORNEY CAPDEVILLE:

25 Q Do you know what the -- let me ask

1 A No.

2 Q Thank you. Stephen is being asked
3 in this lawsuit, or I should say in this
4 proceeding to pay \$150,000 towards Valerie's
5 attorney's fees. Based on your knowledge of
6 Stephen's finances, can you tell the Court
7 whether he can afford this expense at this
8 time?

9 A He cannot.

10 Q Can you explain your answer?

11 A At the end of May, there was about
12 40,000 in his U.S. accounts left. That is not
13 even enough to make all the payments to his
14 dependents. So, if he needs to pay 150,000, it
15 has to come from somewhere. So, he wouldn't be
16 able to support his dependents. We are clearly
17 behind on taxes. If another 150,000 has to be
18 paid, there is no money.

19 Q Well, there's more that Valerie's
20 asking for. She's asking Stephen to be ordered
21 to pay for her expert forensic accountant who
22 may cost upwards of \$240,000. Based on your
23 knowledge of Stephen's finances, can he afford
24 to make that kind of payments made?

25 A He cannot.

1 bottom.

2 ATTORNEY NAGI: It's too far
3 down.

4 THE COURT: Yes, it's probably
5 too far down.

6 THE WITNESS: I see it now.

7 BY ATTORNEY EVERT:

8 Q So, could you tell me what -- let's
9 start with 2019 for Tristian and Veronique.
10 What are the total expenses for 2019?

11 A 147,602.49.

12 Q And you went through a while ago
13 with Attorney Capdeville and you went through
14 and talked about some of the things that that
15 money paid. Do you recall that?

16 A Yes.

17 Q Okay. Could you give me some more
18 details on the \$147,602.49 for the year 2019,
19 are you able to do that?

20 A I would have to look up the exact
21 details. It's been a couple months since I
22 prepared the report but a big amount is for the
23 rent payment as well as for his support.

24 Q Okay. And do you have a document
25 that you prepared that shows your calculations

1 less now. I haven't reviewed the 2021
2 financial statement.

3 Q All right. Who makes the payment in
4 Ireland for the staff?

5 A That would be Penny Johnson. I
6 don't know if she goes by Evans-Freke at this
7 point, Yorick's wife.

8 Q That's your employer's daughter,
9 correct?

10 A Yes.

11 Q And do you know what the -- are the
12 staff paid weekly, biweekly, or monthly?

13 A Weekly.

14 Q Do you know what the gross pay for
15 gross payroll is per week?

16 A It's a little bit less than 15,000.

17 Q And where does that money come from?

18 A From Mr. Evans-Freke.

19 Q But specifically, where does it come
20 from? Does the castle generate money to pay
21 the staff 15,000 a week?

22 A The distillery makes some money, but
23 the majority comes from Mr. Evans-Freke.

24 Q How much money does the distillery
25 generate as far as profit?

1 employees, materials, etc.

2 Q You have prepared a spread sheet and
3 given it to your employer that provides the
4 breakdown.

5 A Yes.

6 Q How much does Mr. Evans-Freke pay
7 per month in rent in St. Thomas, WAPA which is
8 our power company, water, expenses associated
9 with where he lives in St. Thomas. How much
10 per month?

11 A Well, the rent is 12,000. WAPA can
12 be quite expensive. It's \$3,000 per month.

13 Q All right. I'm referring to the
14 personal finances. So, maybe that can help you
15 a little bit.

16 A Well, you asked me per month.

17 Q Yes, per month. Could you tell me
18 per month because he was getting in the same
19 year \$550,000 a month. Could you tell me how
20 much of that money he spent on average for
21 rent, WAPA, and water in addition to rent?

22 A It's about 20,000 I think.

23 Q \$20,000 a month, correct?

24 A Yes.

25 Q And Mr. Evans-Freke testified that

1 days. Others are a little bit more lenient.
2 So, at this point we were still able to keep
3 her on. It's been quite a while.

4 THE COURT: I'm not sure I
5 understand that response. Is she on or off the
6 insurance?

7 ATTORNEY EVERT: She's off now.

8 THE WITNESS: She's on. She's
9 never been off.

10 THE COURT: That's what I
11 thought.

12 BY ATTORNEY EVERT:

13 Q Did you talk with Ms. Evans-Freke
14 about putting her on Medicare?

15 A Yes.

16 Q Did you facilitate that?

17 A I tried to help her. I offered my
18 help as I know how Medicare works --

19 Q Did you ever --

20 A But she couldn't --

21 Q Go ahead.

22 A But she couldn't. I told her how to
23 sign up for it, and since I couldn't do it on
24 her behalf, she needed to call Social Security
25 who then I guess she needed to make an

1 So, I would call it what it says on the tax
2 return.

3 Q Okay, as a CPA, are there any
4 professional standards that you must follow?

5 A Absolutely.

6 Q For example.

7 A We have very strict ethical
8 guidelines we have to follow in preparing
9 accounting statements. I mean, the ethics is
10 probably the most important part.

11 Q And re you required to have any type
12 of license?

13 A Yes.

14 Q Can you tell us what type of license
15 you have, if you have one?

16 A Yes, I have a California CPA
17 license. It is current I keep up with my CPEs
18 every year.

19 ATTORNEY CAPDEVILLE: Thank you
20 very much.

21 THE COURT: Thank you. Thank
22 you, Ms. Kauffman for your testimony. That
23 concludes your testimony. Have a very nice
24 day. You're excused.

25 THE WITNESS: Thank you, you

1 A I don't know.

2 THE COURT: One moment please.
3 I forgot we needed to change the monitor. You
4 may proceed?

5 BY ATTORNEY CAPDEVILLE:

6 Q Thank you. In any event, you did
7 not include that Ireland joint account in your
8 financial statement, did you?

9 A No.

10 Q Okay, and you also didn't include in
11 your financial statement which I believe is
12 your Exhibit A at least to one of the filings,
13 and I believe it's Exhibit 1 in this
14 proceeding, you didn't put anything about the
15 value of the contemporary art that you own, did
16 you?

17 A No.

18 Q In fact, some of that contemporary
19 art, for example, sells for hundreds of
20 thousands of dollars, isn't that correct?

21 A I don't know.

22 Q Have you ever heard about Keith
23 Haring?

24 A Yes.

25 Q What do you know about Keith Haring?

1 A He's an artist.

2 Q Does his work sells for hundreds of
3 thousand dollars?

4 A It depends on what --

5 Q Do you know if he sells any art?

6 ATTORNEY EVERT: Excuse me,
7 Your Honor.

8 ATTORNEY CAPDEVILLE: I'm just
9 trying to move along.

10 THE WITNESS: I'm not an art
11 appraiser.

12 THE COURT: But you have to
13 allow her to answer the question. One minute,
14 please. Only one person can speak at a time.
15 Please allow her to answer the question when
16 you ask.

17 THE WITNESS: I'm not an art
18 appraiser.

19 BY ATTORNEY CAPDEVILLE:

20 Q I didn't ask if you were. I asked
21 if you know if any of his work sells for
22 hundreds of thousand of dollars?

23 A I don't know.

24 Q Do you own any of his works?

25 A Yes.

1 Q You serve them food and you serve
2 them wine, correct?

3 A Yes.

4 Q This is not one of those parties
5 where you bring your own. You supply it?

6 A Oh no, they also bring. They
7 contribute, yes.

8 Q And do you also contribute?

9 A Yes.

10 Q Can you tell the Court. Well, let
11 me just rephrase that would it be fair to say
12 that your immediate needs, food, shelter,
13 clothing are being met at this time?

14 A No.

15 Q Okay. You said you have housing.
16 You said you got a lot of clothes. You said
17 you have food. You have shelter. What are we
18 missing?

19 A Transportation, a car so that I can
20 go from place to place.

21 Q Okay, didn't you testify that you're
22 able to drive your car to New York as long as
23 Jersey is in the car with you?

24 A Yes.

25 Q And, in fact, you tried through your

CERTIFICATE OF SERVICE

I hereby certify that on this the 30th day of January 2023 I caused true and correct copy of the Joint Appendix to be served via the Clerk of the Court using the Virgin Islands Supreme Court E-Filing system, which will send a notification of such filing to Counsel of record via e-mail. A virus check was done on the PDF file via Microsoft Windows Defender. I also certify that four (4) hard copies of the Joint Appendix shall be hand delivered to the Virgin Islands Supreme Court and one (1) hard copy of the Joint Appendix shall be mailed on January 30, 2023, to Julie German Evert, Esq. and Justin K. Holcombe, Esq. at the following:

Julie German Evert, Esq.
Law Offices of Julie German Evert
5043 Norre Gade, Ste. 6
St. Thomas, VI 00802
Email via VIJEFS: lawofficeofjulieevert@gmail.com
Attorney for Appellee/Respondent

Laura C. Nagi, Esq.
Laura Castillo Nagi,
Attorney & Counselor at Law, PLLC
5043 Norre Gade, Suite 6
St. Thomas, VI 00802
Email via VIJEFS: laura@lauranagilaw.com
Attorney for Appellee/Respondent

Justin K. Holcombe, Esq.
Dudley Newman Feuerzeig, LLP
Law House – 1000 Frederiksberg Gade
St. Thomas, VI 00802-6736
Email via VIJEFS: jholcombe@DNFvi.com
Attorneys for Petitioner